

TITLE 8

Health and Sanitation

Chapter 1	Health and Sanitation
Chapter 2	Pollution Abatement
Chapter 3	Garbage and Recycling
Chapter 4	Yard Waste Disposal
Chapter 5	Sewerage Sludge
Chapter 6	Sewage Holding Tanks
Chapter 7	Water Supply Protection Act

CHAPTER 1

Health and Sanitation

8-1-1	Rules and Regulations
8-1-2	Health Nuisances; Abatement of
8-1-3	Deposit of Deleterious Substances Prohibited
8-1-4	Destruction of Noxious Weeds
8-1-5	Regulation of Length of Lawn and Grasses
8-1-6	Rodent Control

SEC. 8-1-1 RULES AND REGULATIONS.

The Town Board may make reasonable and general rules for the enforcement of the provisions of this Chapter and for the prevention of the creation of health nuisances and the protection of the public health and welfare and may, where appropriate, require the issuance of licenses and permits. All such regulations shall have the same effect as ordinances, and any person violating any of such regulations and any lawful order of the Town Board shall be subject to the general penalty provided for in this Code.

SEC. 8-1-2 HEALTH NUISANCES; ABATEMENT OF.

- (a) **Defined.** A health nuisance is any source of filth or cause of sickness.
- (b) **Duty to Abate.** The Town Board shall abate health nuisances pursuant to Sec. 146.14, Wis. Stats., which is adopted by reference and made a part of this Section.

State Law Reference: Sec. 146.14, Wis. Stats.

SEC. 8-1-3 DEPOSIT OF DELETERIOUS SUBSTANCES PROHIBITED.

No person shall deposit or cause to be deposited in any public street or on any public ground or on any private property not his/her own any refuse, garbage, litter, waste material or liquid or any other

objectionable material or liquid. When any such material is placed on the person's own private property, it shall be properly enclosed and covered so as to prevent the same from becoming a public nuisance.

SEC. 8-1-4 DESTRUCTION OF NOXIOUS WEEDS.

- (a) **Notice.** Unless delegated to the county, the Town Clerk shall annually on or before May 15th publish as required by state law a notice that every person is required by law to destroy all noxious weeds on lands in the Town which he owns, occupies or controls. A joint notice with other towns or municipalities may be utilized.
- (b) **Noxious Weeds.** Canadian Thistle, Leafy Spurge, Field Bindweed, Marijuana that is not grown or cultivated for lawful commercial purposes, English Charlock or Wild Mustard, Goats-Beard, Quack or Quitch Grass, harmful Barberry, Field Dodder, Indian Mustard, Oxeye Daisy, Snapdragon or Butter and Eggs, and perennial Sow Thistle, on all land owned, occupied, or controlled by a property owner in said Town, and out to the center of any highway on which such lands may abut, at such time and in such manner as shall effectually prevent them from bearing seed, or spreading to adjoining properties, as required by the Wisconsin Statutes.
- (c) **Destruction of Weeds.** If the owner or occupant shall neglect to destroy any weeds as required by such notice, then the Weed Commissioner of the Town shall give five (5) days' written notice by mail to the owner or occupant of any lands upon which the weeds shall be growing to the effect that the said Weed Commissioner after the expiration of the five (5) day period will proceed to destroy or cause to be destroyed all such weeds growing upon said lands and that the cost thereof will be assessed as a tax upon the lands upon which such weeds are located under the provisions of Sec. 66.0407 of the Wisconsin Statutes. In case the owner or occupant shall further neglect to comply within such five (5) day notice, then the Weed Commissioner shall destroy such weeds or cause them to be destroyed in the manner deemed to be the most economical method and the expense thereof, including the cost of billing and other necessary administrative expenses, shall be charged against such lots and be collected as a special tax thereon.
- (d) **Charge for Cutting Noxious Weeds.** Whenever the Town is required to cut noxious weeds, a billing for such charge shall be sent to the property owner, and in the event the charge is not paid within thirty (30) days from the date of billing, interest may accrue thereon at the rate of one and one-half percent (1-1/2%) per month from and after the due date. The charge of the Town for such service, including interest and a processing charge (see Section 16-1-4), shall be added to the next succeeding tax bill for the real estate taxes as a special assessment, to be paid together with the real estate taxes levied and assessed against the property. The amount of the charge for cutting noxious weeds shall be determined by the Town Board on an annual basis, or as necessary.

SEC. 8-1-5 REGULATION OF LENGTH OF LAWN AND GRASSES.

- (a) **Purpose.** This Section is adopted due to the unique nature of the problems associated with lawns, grasses and noxious weeds being allowed to grow to excessive length in the Town of Waukesha.
- (b) **Public Nuisance Declared.** The Town Board finds that lawns, grasses and noxious weeds on non-agricultural/conservancy lots or parcels of land, as classified under the Zoning Code, governing the Town, within the Town of Waukesha which exceed twelve (12) inches in length. adversely affect the public health and safety of the public in that they tend to emit pollen and other discomforting bits of plants, constitute a fire hazard and a safety hazard in that debris can be hidden in the grass, interferes with the public convenience and adversely affects property values of other land within the Town. For that reason, any nonagricultural lawn, grass or weed on a lot or other parcel of land which exceeds twelve (12) inches in length is hereby declared to be a public nuisance, except for property located in a designated floodplain area and/or wetland area.
- (c) **Nuisances Prohibited.** No person, firm or corporation shall permit any public nuisance as defined in Subsection (b) above to remain on any premises owned or controlled by him within the Town.

- (d) **Inspection.** The Weed Commissioner or his/her designee shall inspect or cause to be inspected all premises and places within the Town to determine whether any public nuisance as defined in Subsection (b) above exists.
- (e) **Abatement of Nuisance.**
 - (1) If the Weed Commissioner shall determine with reasonable certainty that any public nuisance as defined in Subsection (b) above exists, he/she shall immediately cause written notice to be served that the Town proposes to have the lot grass or lawn cut so as to conform with this Section.
 - (2) The notice shall be served at least five (5) days prior to the date of the hearing and shall be mailed or served on the owner of the lot or parcel of land or, if he/she is not known and there is a tenant occupying the property, then to the tenant, of the time and place at which the hearing will be held.
- (f) **Due Process Hearing.** If the owner believes that his/her grasses or weeds are not a nuisance, he/she may request a hearing before the Town Board. The request for said hearing must be made in writing to the Town Clerk's office within the five (5) days set forth in the Weed Commissioner's notice. Upon application for the hearing, the property owner must deposit a \$25.00 bond. If a decision is rendered in the property owner's favor, the \$25.00 will be returned to the property owner. If the property owner fails to appear for the hearing or if the decision is rendered against the property owner, the deposit shall be forfeited and applied to the cost of Town personnel abating the nuisance, if necessary. When a hearing is requested by the owner of the property, a hearing by the Town Board shall be held within seven (7) days from the date of the owner's request. The property in question will not be mowed by the Town until such time as the hearing is held by the Town Board. At the hearing, the owner may appear in person or by his/her attorney, may present witnesses in his/her own behalf and may cross-examine witnesses presented by the Town as well as subpoena witnesses for his/her own case. At the close of the hearing, the Town Board shall make its determination in writing specifying its findings, facts, and conclusions. If the Town Board determines that a public nuisance did exist, the Town Board shall order the Weed Commissioner to mow the property in question unless the property has been mowed by the owner within forty-eight (48) hours of the Town Board's decision. If the owner does not abate the nuisance within the described forty-eight (48) hours, the Weed Commissioner shall cause the same nuisance to be abated and cost in excess of the forfeited fee assessed accordingly.
- (g) **Option To Abate Nuisance.** In any case where the owner, occupant or person in charge of the property shall fail to cut his/her lawn, grass or weeds as set forth above, then, and in that event, the Town may elect to cut said lawn, grass or weeds as follows:
 - (1) The written notice required in Subsection (e) shall inform said person that in the event of his/her failure to abate the nuisance within the prescribed time, the Town shall abate the same and the cost thereof shall be assessed to the property owner as a special charge.
 - (2) The Town shall cut or cause to be cut all grass and weeds from the subject's property and shall charge the expenses of so doing at a rate as established by resolution by the Town Board, pursuant to Section 8-1-4(c). The charges shall be set forth in a statement to the Town Clerk who, in turn, shall mail the same to the owner, occupant or person in charge of the subject premises. If said statement is not paid in full within thirty (30) days thereafter, the Town Clerk shall enter the charges in the tax roll as a special tax against said lot or parcel of land, and the same shall be collected in all respects like other taxes upon real estate, or as provided under Sec. 66.615(3)(f), Wisconsin Statutes.

SEC. 8-1-6 RODENT CONTROL.

- (a) **Definitions.** The following definitions shall be applicable in this Section:
 - (1) Owner or Manager. Whenever any person or persons shall be in actual possession of or have charge, care or control of any property within the Town, as executor, administrator,

trustee, guardian or agent, such person or persons shall be deemed and taken to be the owner or owners of such property within the true intent and meaning of this Section and shall be bound to comply with the provisions of this Section to the same extent as the owner, and notice to any such person of any order or decision of the Building Inspector or his/her designee shall be deemed and taken to be a good and sufficient notice, as if such person or persons were actually the owner or owners of such property; except that whenever an entire premises or building is occupied as a place of business, such as a store, factory, warehouse, rooming house, junk yard, lumber yard or any other business under a single management, the person, firm or corporation in charge of such business shall be considered the owner or manager.

- (2) A Rodent-Proof Container shall be a container constructed of concrete or metal, or the container shall be lined with metal or other material that is impervious to rodents, and openings into the container such as doors shall be tight-fitting to prevent the entrance of rodents.
 - (3) Rodent-Proofing shall consist of closing openings in building foundations and openings under and around doors, windows, vents and other places which could provide means of entry for rodents, with concrete, sheet iron, hardware cloth or other types of rodent-proofing material approved by the Town.
 - (4) Rodent Harborage shall mean any place where rodents can live and nest without fear of frequent molestation or disturbance.
 - (5) Hardware Cloth shall mean wire screening of such thickness and spacing as to afford reasonable protection against the entrance of rodents.
 - (6) Rodent shall mean all nuisance animals.
- (b) **Elimination of Rodent Harborages.** Whenever accumulations of rubbish, boxes, lumber, scrap metal, car bodies or any other materials provide rodent harborage, the person, firm or corporation owning or in control of such materials shall cause the materials to be removed or the materials shall be stored so as to eliminate the rodent harborage. Lumber boxes and similar materials shall be neatly piled. These piles shall be raised at least a foot above the ground. When the owner of the materials cannot be found after a reasonable search, the owner or manager of the premises on which the materials are stored shall be responsible for disposal, or proper piling, of the materials.
 - (c) **Elimination of Rodent Feeding Places.** No person, firm or corporation shall place, or allow to accumulate, any materials that may serve as a food for rodents in a site accessible to rodents. Any waste material that may serve as food for rodents shall be stored in rodent-proof containers. Feed for birds shall be placed on raised platforms, or such feed shall be placed where it is not accessible to rodents.
 - (d) **Extermination.** Whenever rodent holes, burrows or other evidence of rodent infestation are found on any premises or in any building within the Town, it shall be the duty of the owner or manager of such property to exterminate the rodents or to cause the rodents to be exterminated. Within ten (10) days after extermination, the owner or manager shall cause all of the rodent holes or burrows in the ground to be filled with earth or other suitable material.
 - (e) **Rodent-Proofing.** It shall be the duty of the owner or manager of any building in the Town of Waukesha to make such building reasonably rodent-proof, to replace broken basement windows and, when necessary, to cover the basement window openings with hardware cloth or other suitable material for preventing rodents from entering the building through such window openings.

CHAPTER 2

Pollution Abatement

- 8-2-1 Cleanup of Spilled or Accidentally Discharged Wastes
- 8-2-2 Storage of Polluting Substances

SEC. 8-2-1 CLEANUP OF SPILLED OR ACCIDENTALLY DISCHARGED WASTES.

- (a) **Cleanup Required.** All persons, firms, or corporations delivering, hauling, disposing, storing, discharging or otherwise handling potentially polluting substances, solid or liquid, such as, but not limited to, the following: fuel oil, gasoline, solvents, industrial liquids or fluids, milk, grease trap and septic tank wastes, sewage sludge, sanitary sewer wastes, storm sewer catch-basin wastes, oil or petroleum wastes, shall immediately clean up any such spilled material to prevent its becoming a hazard to health or safety or directly or indirectly causing pollution to the lakes and streams under the jurisdiction of the Town.
- (b) **Notification.** Spills or accidental release of hazardous materials or pollutants at a site or of a quantity or nature that cannot adequately be cleaned up by the responsible party or parties shall be immediately reported to the Fire Department so that assistance can be given by the proper agency.
- (c) **Financial Liability.** The party or parties responsible for the release, escape or discharge of wastes shall be held financially liable for the cost of any cleanup or attempted cleanup deemed necessary or desirable and undertaken by the Town, or its designated agent, in an effort to minimize the pollutional effects of the discharged waste.
- (d) **Reimbursement for Hazardous Material Emergency Action.**
 - (1) Any person who possessed or controlled a hazardous substance that was discharged or who caused the discharge of a hazardous substance shall reimburse the Town of Waukesha for actual, reasonable and necessary expenses incurred by the Town of Waukesha for any emergency action taken under, and consistent with, Sec. 166.22(3), Wis. Stats., whether such action be taken by the Town of Waukesha or another entity on its behalf or direction.
 - (2) Reimbursement as provided under Subsection (d)(1), above, will be accomplished as provided by Sec. 166.22(5), Wis. Stats., by the Waukesha County Board of Supervisors, or by local emergency government officials.
 - (3) Terms not defined above shall have the meaning referred to in Sec. 166.22(1), Wis. Stats.

SEC. 8-2-2 STORAGE OF POLLUTING SUBSTANCES.

It shall be unlawful for any person, firm or corporation to store any potentially polluting substances unless such substances are stored in such manner as to securely prevent them from escaping onto the ground surface and/or into any street, sewer, ditch or drainageway, lake or stream within the jurisdiction of the Town of Waukesha.

CHAPTER 3

Garbage and Recycling

- 8-3-1 Findings and Declaration of Purpose
- 8-3-2 Statutory Authority
- 8-3-3 Abrogation and Greater Restrictions
- 8-3-4 Interpretation
- 8-3-5 Garbage and Refuse Collection
- 8-3-6 Definitions
- 8-3-7 Separation Requirements Exempted
- 8-3-8 Care of Separated Recyclable Materials
- 8-3-9 Management of Lead Acid Batteries, Major Appliances, Waste Oil, Tires, Furniture, Scrap Metal
- 8-3-10 Preparation and Collection of Recyclable Materials
- 8-3-11 Responsibilities of Owners or Designated Agents of Non-Residential Facilities, Properties, and Multi-Family Dwellings
- 8-3-12 Prohibitions on Disposal of Recyclable Materials Separated for Recycling
- 8-3-13 Non-Recyclable Materials
- 8-3-14 Items Not Accepted
- 8-3-15 Collection by Unauthorized Person
- 8-3-16 Licensing and Regulation of Haulers
- 8-3-17 Enforcement

SEC. 8-3-1 FINDINGS AND DECLARATION OF PURPOSE.

The Town Board of the Town of Waukesha hereby finds and determines that there is an increasing necessity to conserve natural resources in landfill space and to promote recycling as mandated by State law. In the age of shortages, conservation of recyclable material is an important public concern. It is the purpose of this Chapter to promote recycling, composting, and resource recovery through the administration of a mandatory recycling program, as provided in Wis. Stats. Sec. 159.11 and Ch. NR 544, Wis. Adm. Code, by the Town of Waukesha in order to protect and promote the public health, safety and welfare.

SEC. 8-3-2 STATUTORY AUTHORITY.

This Chapter is adopted, as authorized under Wis. Stats. Sec. 159.09(3)(b) and 60.10, and Ch. NR 544, Wis. Adm. Code.

SEC. 8-3-3 ABROGATION AND GREATER RESTRICTIONS.

It is not intended by this Chapter to repeal, abrogate, annul, impair or interfere with any existing rules, regulations, ordinances or permits previously adopted or issued pursuant to law. However, whenever this Chapter imposes greater restrictions, the provisions of this Chapter shall apply.

SEC. 8-3-4 INTERPRETATION.

In their interpretation and application, the provisions of this Chapter shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this Chapter may be inconsistent or conflicting, the more

restrictive requirements or interpretation shall apply. Where a provision of this Chapter is required by Wisconsin Statutes, or by a Standard in Ch. NR 544, Wis. Adm. Code, and where the Chapter provision is unclear, the provision shall be interpreted in light of the Wisconsin Statutes and the Ch. NR 544 standards in effect on the date of the adoption of this Chapter, or in effect on the date of the most recent text amendment to this Chapter.

SEC. 8-3-5 GARBAGE AND REFUSE COLLECTION.

The Town has contracted with a private company to collect and haul garbage and refuse for all residential units, and this shall be the exclusive method of public collection and hauling of such garbage and refuse, except for special collections authorized by the Town Board from time-to-time.

Notwithstanding the foregoing, private garbage collection companies who have not entered into a contract with the Town may collect and haul garbage and refuse from residential and commercial units, provided those companies have been issued a license by the Town in accordance with the terms of this contract. Any company issued a license to collect and haul garbage and refuse within the Town shall comply with all terms and conditions of this ordinance, including, but not limited to, those provisions of this ordinance requiring the separation of recyclable materials from non-recyclable materials.

SEC. 8-3-6 DEFINITIONS.

For the purposes of this ordinance:

- (1) "Bi-metal container" means a container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.
- (2) "Container board" means corrugated paperboard used in the manufacture of shipping containers and related products.
- (3) "Foam polystyrene packaging" means packaging made primarily from foam polystyrene that satisfies one of the following criteria:
 - (a) Is designed for serving food or beverages.
 - (b) Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.
 - (c) Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.
- (4) "HDPE" means high density polyethylene, labeled by the SPI code #2.
- (5) "Household Items" means televisions, furniture, bed frames, mattresses, patio furniture, and computers.
- (6) "LDPE" means low density polyethylene, labeled by the SPI code #4.
- (7) "Magazines" means magazines and other materials printed on similar paper.
- (8) "Major appliance" means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, stove, hot water heater, or humidifiers.
- (9) "Multiple-family dwelling" means a property containing five (5) or more residential units, including those which are occupied seasonally.
- (10) "Newspaper" means newspaper and other materials printed on newsprint.
- (11) "Non-residential facilities, properties, and multi-family dwellings" means commercial, retail, industrial, institutional, and governmental facilities and properties. This term does not include multiple-family dwellings.
- (12) "Office paper" means high grade printing and writing papers from offices in non-residential facilities and properties. Printed white ledger and computer printouts are examples of office paper generally accepted as high grade. This term does not include industrial process waste.
- (13) "Other resins or multiple resins" means plastic resins labeled by the SPI code #7.

- (14) "Person" includes any individual, corporation, partnership, association, local governmental unit, as defined in Wis. Stats. § 66.299(1) (a), State agency or authority, or Federal agency.
- (15) "PETE" means polyethylene terephthalate labeled by the SPI code #1.
- (16) "Plastic container" means an individual, separate, rigid plastic bottle, can, jar, or carton, except for a blister pack that is originally used to contain a product that is the subject of a retail sale.
- (17) "Post-consumer waste" means solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in Wis. Stats. § 144.61(5), waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste, as defined in Wis. Stats. § 144.44(7)(a)1.
- (18) "PP" means polypropylene labeled by the SPI code #5.
- (19) "PS" means polystyrene labeled by the SPI code #6.
- (20) "PVC" means polyvinyl chloride labeled by the SPI code #3.
- (21) "Recyclable materials" includes lead acid batteries; major appliances; waste oil; yard waste; aluminum containers; corrugated paper or other container board; foam polystyrene packaging; glass containers; magazines; newspaper; office paper; junk mail; rigid plastic containers, including those made of PETE, HDPE, PVC, LDPE, PP, PS and other resins or multiple resins; steel containers; waste tires; bi-metal containers and scrap metal.
- (22) "Residential unit" shall mean a single-family residence, or any residential complex containing four (4) or less residential units.
- (23) "Scrap Metal" means bicycles, lawnmowers, rain gutters, and any other such metal items.
- (24) "Solid waste" has the meaning specified in Wis. Stats. § 144.01(15).
- (25) "Solid waste facility" has the meaning specified in Wis. Stats. § 144.43(5).
- (26) "Solid waste treatment" means any method, technique, or process which is designed to change the physical, chemical, or biological character or composition of solid waste. "Treatment" includes incineration.
- (27) "Waste tire" means a tire that is no longer suitable for its original purpose because of wear, damage, or defect.
- (28) "Yard waste" means leaves, grass clippings, yard and garden debris, brush, including clean woody vegetative material no greater than four (4) inches in diameter. This term does not include stumps, roots, or shrubs with intact root balls.

SEC. 8-3-7 SEPARATION REQUIREMENTS EXEMPTED.

The separation requirements do not apply to the following:

- (1) Occupants of residential units, multiple-family dwellings and non-residential facilities, properties that send their Post-consumer waste to a processing facility licensed by the Wisconsin Department of Natural Resources that recovers the materials from solid waste in as pure a form as is technically feasible.
- (2) Solid waste which is burned as a supplemental fuel at a facility if less than thirty percent (30%) of the heat input to the facility is derived from solid waste burned as supplemental fuel.
- (3) A recyclable material for which a variance has been granted by the Department of Natural Resources under Wis. Stats. § 159.11(2m) or § NR 544.14, Wis. Adm. Code.

SEC. 8-3-8 CARE OF SEPARATED RECYCLABLE MATERIALS.

To the greatest extent practicable, the recyclable materials separated shall be clean and kept free of contaminants such as food or product residue, oil or grease, or other non-recyclable materials, including, but not limited to, household hazardous waste, medical waste, and agricultural chemical containers. Recyclable materials shall be stored in a manner which protects them from wind, rain, and other inclement weather conditions.

SEC. 8-3-9 MANAGEMENT OF LEAD ACID BATTERIES, MAJOR APPLIANCES, WASTE OIL, TIRES, FURNITURE, SCRAP METAL.

Occupants of residential units shall manage these items as follows:

- (1) Lead acid batteries shall be placed curbside separate from other refuse and recyclables on the fourth pickup day of each month.
- (2) Major appliances and furniture shall be placed curbside on the fourth pickup day of the month.
- (3) Waste oil shall be placed curbside in tightly-capped containers clearly labeled as oil on the fourth pickup day of each month.
- (4) Tires (limit of 2), not exceeding the maximum of 47 inches, may be placed curbside on the large article pickup day.
- (5) Large corrugated cardboard boxes and sections (appliance, furniture boxes, etc.) shall be set out empty and free of wood, Styrofoam, and plastic packing materials on the fourth pickup day of each month.
- (6) Scrap Metal shall be placed curbside on the fourth pickup day of each month.

All bulky items are to be set curbside, separated from other refuse, by 6:00 a.m. of the day designated by the Town for collection, but no earlier than 24 hours prior to the scheduled pick up.

Bulky item pick up is intended for normal residential household items. The bulky item pick up is not intended for persons who are moving out of their house. In such cases, property owners must privately contract for a dumpster, which cost will be paid by property owner.

SEC. 8-3-10 PREPARATION AND COLLECTION OF RECYCLABLE MATERIALS.

Except as otherwise directed by the Town of Waukesha, occupants of residential units shall do the following for the preparation and collection of the separated materials:

- (1) Aluminum containers, bi-metal containers, glass containers, plastic containers made of PTE and HDPE, and steel containers shall be cleaned of debris and placed in the blue recycling bins.
- (2) Dry paper shall be placed in paper bags or tied. Dry paper includes magazines, office paper, newspapers, phone books, cardboard boxes, junk mail and mixed paper.
- (3) Other corrugated cardboard boxes shall be flattened and tied.
- (4) Foam polystyrene packaging and plastic containers made of PVC, LDPE, PP, PS, and other resins or multiple resins shall not be included with recyclable materials until such time as the variance on recycling those materials is lifted by the Department of Natural Resources, and the Town gives notice that those materials are to be included with recyclable materials.

All recyclables are to be set curbside, separated from other refuse, by 6:00 a.m. of the day designated by the Town for collection, but no earlier than 24 hours prior to the scheduled pickup. Recycle Bin is to be placed curbside within two feet of the edge of the road or shoulder, on one side of the driveway, opposite from the wheeled cart. Recycle Bin must be removed within 24 hours following pickup.

SEC. 8-3-11 RESPONSIBILITIES OF OWNERS OR DESIGNATED AGENTS OF NON-RESIDENTIAL FACILITIES, PROPERTIES, AND MULTI-FAMILY DWELLINGS.

- (1) Owners, or designated agents of non-residential facilities, properties, and multi-family dwellings, shall do all of the following to recycle the materials:
 - (a) Provide adequate, separate containers for the recyclable materials.
 - (b) Notify, in writing, at least semi-annually, all users, tenants, and occupants of the properties about the established recycling program.
 - (c) Provide for the collection of the materials separated from the solid waste by the users, tenants, and occupants and the delivery of the materials to a recycling facility.
 - (d) Notify users, tenants, and occupants of reasons to reduce and recycle, which materials are collected, how to prepare materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address, and telephone number.
- (2) The requirements specified above do not apply to the owners or designated agents of non-residential facilities and properties if the Post-consumer waste generated within the facility or property is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials from solid waste in as pure a form as is technically feasible.

SEC. 8-3-12 PROHIBITIONS ON DISPOSAL OF RECYCLABLE MATERIALS SEPARATED FOR RECYCLING.

No person may dispose, in a solid waste disposal facility, or burn, in a solid waste treatment facility, any of the materials which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.

SEC. 8-3-13 NON-RECYCLABLE MATERIALS.

All non-recyclable materials shall be grouped together and placed in one or more plastic garbage bags, inside the wheeled cart provided by the contractor for garbage collection purposes. Non-recyclable materials shall include the following:

- (1) Glass. All Pyrex glass, window glass, light bulb glass, mirrors, broken glass, and china shall be considered non-recyclable glass.
- (2) Paper. All waxed paper, waxed cardboard.
- (3) All other garbage and refuse not qualifying as recyclable material.
- (4) Wheeled cart to be set curbside by 6:00 a.m. of the day designated by the Town for collection, but no earlier than 24 hours prior to the scheduled pickup. Wheeled cart is to be placed curbside within two feet of the edge of the road or shoulder, on one side of the driveway, opposite from recycle bin. Contractor must replace the wheeled cart to the same location as indicated by the Ordinance. Wheeled cart must be removed within 24 hours following pickup.

SEC. 8-3-14 ITEMS NOT ACCEPTED.

Items which will not be collected are as follows:

- (1) Earth, rocks, concrete, construction and demolition materials including drywall, shingles, lumber, and trees, or parts thereof;
- (2) Garbage and other household refuse which has not been placed inside the Wheeled Cart;
- (3) Yard waste, including leaves, grass, plant debris, and brush.
- (4) Oil-based paints.
- (5) Needles or syringes.
- (6) Any other items whose disposal is prohibited by the Town, as evidenced in written and published materials provided to the owner or occupant of any residential property at the time garbage collection is commenced, or as supplemented by any additional written materials or notices provided the residents, from time-to-time, by the Town Board or, with the approval of the Town Board, the private contractor.
- (7) Hazardous, toxic, or infectious materials, including any items recognized as special waste by the State of Wisconsin.

SEC. 8-3-15 COLLECTION BY UNAUTHORIZED PERSON.

From the time of placement at the curb by anyone of the categories described herein for collection by the Town of Waukesha in accordance with the terms hereof, items shall be, and become, the property of the Town of Waukesha or its authorized agent. It shall be a violation of this ordinance for any person unauthorized by the Town of Waukesha to collect, pick up, or cause to be collected or picked up, any such items during the 24-hour period commencing at 6:00 p.m. on any day preceding a day designated for collection. Each and any such collection in violation hereof shall constitute a separate and distinct offense.

SEC. 8-3-16 LICENSING AND REGULATION OF HAULERS.

- (1) Licensing of Collectors. No person may collect garbage, rubbish or waste material, or recyclable materials, except for the owner or occupant of a single-family dwelling, the owner or occupant of an apartment building or condominium, construction contractor removing scrap and debris from building sites, or municipal workers, unless licensed by the Town. Such person serving as a garbage contractor shall provide recycling service to its customers pursuant to this Section. Any garbage contractor collecting garbage and refuse from Town residents shall segregate recyclable items from non-recyclable items, and shall dispose of the non-recyclable items through an appropriate recycling service or center. No recyclable items collected by the garbage contractor may be commingled with non-recyclable items during the collection process, or during the process of transporting the garbage and refuse to the appropriate recycling center and/or landfill site. Nothing in this Section shall be construed to limit collection service to single-family households.
- (2) License Applications. Licensing application and licenses shall be on forms prepared and furnished by the Town Clerk and shall set forth the name and address of the applicant, description of vehicles used, and such other information as may be required by the Town Clerk or the Town Board. The license period shall be from January 1 to December 31 of each year. The license agreement will be self-renewing upon receipt of the yearly license fee by the Town Clerk unless terminated in accordance with subsection (3) below. License fees shall be annually, regardless of the number of vehicles operated by the garbage contractor in the Town.
- (3) Recycling Containers Required. Recycling containers shall be the required receptacles for collection of recyclables in households.
- (4) Hours of Collection. Garbage contractors shall not operate between the hours of 7:00 p.m. and 6:00 a.m. and shall not operate on Sundays.
- (5) Refusal to Collect Improperly-Separated Materials. It shall be the right of any contractor to refuse to collect trash or recyclables not properly separated. This garbage shall be removed from the set-out location by the person who put the unseparated materials out for collection within 24 hours of scheduled pick up.
- (6) Recyclables to be Separated. The garbage contractors shall collect and keep newspapers and other recyclable materials separate from nonrecyclable materials. Recyclables collected in a commingled fashion shall, along with newspapers, be delivered to the Waukesha County Multi-Material Recycling Facility.
- (7) Records. Garbage contractors shall keep records of the garbage, by tons or cubic yards, dumped at landfills and recyclables collected, and report the same to the Town Board and to the Waukesha County Division of Recycling and Solid Waste every six (6) months.
- (8) Special Collection Fees. Haulers may charge an additional fee for up-the-driveway service. Garbage contractors shall charge their customers for such service and contract directly with the resident.
- (9) Proper Collection Vehicles. Each vehicle shall have a hauling body with closed joints to prevent the dripping or leakage of liquid or debris, and with adequate means to cover and keep the material securely within the hauling body. Each vehicle shall be kept well painted, clean and in good repair, and reasonably free from odors. Each vehicle shall bear the name and address of the owner.
- (10) Proper Collection Methods. Collectors shall, so far as possible, transfer the contents on driveways, walks, yards, or streets, and shall clean up all of such contents as may be spilled during collection. Collectors shall make a reasonable effort to completely empty containers and to secure lids.
- (11) License Suspension/Revocation. Licenses may be suspended and revoked for violations of this Section, or other applicable laws or ordinances, after a public hearing by the Town Board with at least ten (10) days written notice thereof being given the licensee.
- (12) Compliance with other Regulations. Haulers shall comply with all applicable Federal and State statutes and administrative rules and all local ordinances.

SEC. 8-3-17 ENFORCEMENT.

Refusal to separate recyclables, in compliance with the terms of this ordinance, shall be cause for the Town's refuse collector to refuse to pick up such garbage or refuse. It shall be the responsibility of the property owner to properly dispose of any garbage or refuse not collected by the Town's refuse collector due to failure to separate recyclables.

For purposes of ascertaining compliance with the provisions of this ordinance, any authorized officer, employee, or representative of the Town of Waukesha may inspect recyclable materials separated for recycling, Post-consumer waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection areas of multiple-family dwellings, and non-residential facilities and properties, and any records relating to recycling activities, which shall be kept confidential when necessary to protect proprietary information. No person may refuse access to any authorized officer, employee, or authorized representative of the Town of Waukesha who requests access for purposes of inspection and who presents appropriate credentials. No person may obstruct, hamper, or interfere with such an inspection.

Any person who violates a provision of this ordinance may be issued a citation by local law enforcement officers or other designated person(s) to collect forfeitures. The issuance of a citation shall not preclude proceeding under any other ordinance or law relating to the same, or any other, matter. Proceeding under any other ordinance or law relating to the same, or any other, matter shall not preclude the issuance of a citation under this paragraph.

Penalties for violating this ordinance may be assessed as follows:

- (1) Any person in violation of this ordinance may be required to forfeit One Hundred Dollars (\$100.00) for a first violation, Two Hundred Dollars (\$200.00) for a second violation, and not more than Two Thousand Dollars (\$2,000.00) for a third or subsequent violation, plus the costs of prosecution.
- (2) Any person in violation of this ordinance may be required to forfeit not less than Ten Dollars (\$10.00), nor more than One Thousand Dollars (\$1,000.00), for each violation, plus the costs of prosecution.
- (3) In addition to other remedies for repeated violations of this ordinance, the Town may impose sanctions, including directives to the garbage contractor, to cease providing service to the residents, and may seek other and further injunctive relief.

CHAPTER 4

Yard Waste Disposal

- 8-4-1 Yard Waste Collection Facility
- 8-4-2 Large Dumpster for Yard Waste Only
- 8-4-3 Penalty

SEC. 8-4-1 YARD WASTE COLLECTION FACILITY.

The Town Board shall maintain, for use of Town residents, a Yard Waste Collection Facility. As used in this ordinance, the term “yard waste” shall mean grass clippings, leaves, and tree limbs and branches less than six (6) feet in length and having a diameter of six (6) inches or less. The owner or occupant of any residential property is required to obtain a permit to use the yard waste collection facility. The permit may be obtained from the Clerk’s office during normal business hours.

Use of the Yard Waste Collection Facility shall be subject to such terms and conditions, including hours of operation, as may be established by the Town Board from time-to-time. Any person committing any act, or failing to comply with any condition or event set forth in this ordinance, or posted at the Yard Waste Collection Facility site, shall be deemed to have violated the terms of this ordinance and shall be subject to a penalty as provided herein.

SEC. 8-4-2 LARGE DUMPSTER FOR YARD WASTE ONLY.

Large dumpsters, or other designated containers, shall be located at the Town Yard Waste Collection Facility. Any Town resident may use the Town Yard Waste Collection Facility for the purpose of disposing of yard waste, provided that the disposal of such yard waste shall comply with the rules and regulations for operation of the Town Yard Waste Collection Facility as approved by the Town Board, from time-to-time, and as posted at the Town Yard Waste Collection Facility.

SEC. 8-4-3 PENALTY.

Any person violating the terms of this ordinance shall be subject to a penalty of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) per occurrence, together with all reasonable and necessary costs and expenses, including engineering, legal, administrative, and related costs and expenses incurred in removing and disposing of any property or item deposited at the Town Garbage and Yard Waste Collection Facility in violation of the terms of this ordinance.

CHAPTER 5

Sewerage Sludge

8-5-1 Sewerage Sludge Disposal

SEC. 8-5-1 SEWERAGE SLUDGE DISPOSAL.

- (a) **Scope and Intent.** The intent of this Section is to safeguard the public against the creation or perpetration of a public nuisance. It is the intent of the Town Board that the application of sludge on property sites located in the Town of Waukesha be undertaken in accordance with the regulations and laws of the State of Wisconsin, but not in such a manner as might be offensive to the ordinary sensibilities of Town residents.
- (b) **Definitions.** As used in this Section:
- (1) "Sludge". The accumulated residual solids (usually in aqueous solution) resulting from the treatment of municipal waste waters.
 - (2) "Site" or "Property Site". The property on which the applicant intends to apply sludge. Each real estate tax parcel as found on the tax rolls of the Town of Waukesha shall constitute a separate "site" or "property site".
 - (3) "Applicant". The owner of the treatment facility generating the sludge.
- (c) **Permit Required.** No person, firm or corporation shall apply or allow to be applied to lands under their ownership, lease or control, sludge to any land located within the corporate limits of the Town of Waukesha without first having obtained a permit from the Town Board. This shall apply to both existing and proposed sludge disposal operations.
- (d) **Application.** Written application for a permit to apply sludge on any lands within the Town shall be made to the Town Clerk. The application shall state:
- (1) The applicant shall be the owner of the treatment facility generating the sludge.
 - (2) The name and address of the applicant, and if the applicant is a corporation, the name, address and registered agent of the corporation.
 - (3) The address and legal description of the site to be used.
 - (4) The names and addresses of the landowners and haulers involved with the proposed disposal of the sludge.
 - (5) The length of time the applicant intends to apply sludge on the site or sites described in the application.
 - (6) The name or names and address of the owners of any other site or sites upon which the applicant is presently applying sludge, whether or not such site or sites are within or without the corporate limits of the Town.
 - (7) Names and addresses of all property owners within one thousand five hundred (1,500) feet of the boundaries of the proposed application site.
 - (8) The volume and content of sludge that is proposed to be applied. In addition to the nutritional content of sludge, applicant will supply exact and detailed analysis of the sludge metal content.
- (e) **Term of Permit.** A permit issued hereunder shall be for a period commencing on April 1 in the year of application and ending on December 1 in the year of application. The terms of each permit may be temporarily extended by the Town Board if the Board is satisfied that the sewerage sludge can be incorporated within the soil on the property site during such extended period so as to prevent the creation of noxious or offensive odors and as required in this Section.

- (f) **Permit Fee.** The applicant shall accompany its application with a nonrefundable annual permit fee (see Section 16-1-4) per site per year. Any annual renewal of the permit shall be subject to the same fee. The applicant shall also pay to the Town Clerk at the time of filing the application an amount to be determined by the Town Clerk for costs and expenses incurred in giving notice of these proceedings as provided in this Section.
- (g) **Granting of Permit.** The Town Board may refer all applications for issuance of a permit hereunder to the Plan Commission for its recommendation; provided however, that the Town Board may elect not to refer the matter to the Plan Commission in those circumstances where the Town Board determines that the spreading of sludge in accordance with the permit will not have an adverse effect upon residents of the Town. In those cases where the Town Board refers the matter to the Plan Commission, the Town Board may require a public hearing on such application which, if required, shall be a joint public hearing held by the Plan Commission and the Town Board. The date of such hearing shall be within sixty (60) days of the date that such application for a permit hereunder is filed with the Town Clerk. Notice of such public hearing shall be given by certified mail to all property owners whose property or any portion thereof is located within one thousand five hundred (1,500) feet of the boundary of the land upon which sludge disposal is proposed. Prior to such public hearing the Town Board may engage the services of the Town Engineer, a hydrologist or other individual having recognized expertise in the areas of sludge disposal for their investigation and recommendations to the Board concerning the application. Any costs and expenses incurred by the Town in connection with such investigation shall be paid by the applicant within thirty (30) days from the date of billing therefor by the Town to the applicant. If the applicant fails to make such payment, the Town Board will withhold any action on the application, or if granted by the Town Board within such period, the Town Board may revoke such permit until such bill has been paid. The Plan Commission shall make its recommendations to the Town Board within ten (10) days of the date of the public hearing and the Town Board shall in all instances act on the application within thirty (30) days from the date of the recommendation by the Plan Commission or within thirty (30) days from the date of the public hearing, whichever date occurs first. The Town Board shall issue a permit hereunder if at the conclusion of the public hearing, when required, or upon consideration of the Plan Commission's recommendation, if required, and upon consideration of all other evidence presented to the Town Board, the Board finds the following:
- (1) The sludge will be immediately incorporated with the soil on the property site so as to prevent the creation of noxious or offensive odors. There shall be no above ground spreading of sludge and such sludge shall be incorporated with the soil by injection only.
 - (2) That the sludge will be applied in accordance with the appropriate regulations of the Department of Natural Resources, Technical Bulletin No. 88.
 - (3) That the applicant has received approval from the Department of Natural Resources to apply such sludge to the property site described in the application.
 - (4) That no sludge will be applied at a distance less than two hundred (200) feet from the nearest residence, or such other distance, if greater, as is required by the Department of Natural Resources.
 - (5) That the sludge will not be applied at a distance less than two hundred (200) feet from the nearest private water supply well, or at such other distance, if greater, as is required by the Department of Natural Resources, and that the application of the sludge is not likely to result in the contamination of a source for any water supply, irrespective of the location of the water supply.
 - (6) That the sludge will not be applied at a distance less than one hundred (100) feet from any stream, pond or other channelized waterway, or such other distance, if greater, as is required by the Department of Natural Resources.

- (7) That the sludge will not be applied to any soil which, because of its composition, would tend to create a health hazard.
 - (8) That the applicant has applied for and received all appropriate licenses from county or state licensing authorities.
 - (9) That a copy of all reports required by the county or state by sent to the Town Clerk at the same time as sent to the state.
 - (10) That the application of a sludge will not constitute a nuisance in any manner.
 - (11) That the application of sludge will only take place during the hours of 7:00 a.m. to 5:00 p.m. and will not be applied to any site on Saturday, Sunday or holidays.
 - (12) Absolutely no Town roads will be used for transporting sludge without prior approval of the Town Board.
- (h) **Permit Denial.** If the Town Board does not find affirmatively with reference to any of Subsections (g)(1) through (12) inclusive above, the application for such permit shall be denied.
 - (i) **Eligible Parcels.** "Wastewater sludge" shall be applied only to DNR approved farm fields in accord with the current state and federal guidelines. The amount of sludge which can be applied to a parcel of land in any one (1) given year shall be based on nutritional requirements and the allowable sludge metals as established by the most recent DNR and EPA regulations. In no case shall more than six percent (6%) of the permitted total allowable amount of any one (1) or more metals be applied to any parcel of land per year. No further application of sludge to any such field shall be permitted for a period of two (2) years after such sludge has been applied. The total allowable amount of metals shall be determined using the soil exchange capacity as analyzed by an approved laboratory for that specific parcel.
 - (j) **Independent Sampling.** In the event the Town Board requests an independent sample and test of any proposed sludge, applicant agrees to allow the taking of a sample and said independent test at any time or place requested so that the integrity of the sample is preserved. All costs and expenses to the Town for such tests shall be paid for by the applicant within thirty (30) days from the date of billing. In the event the applicant fails to make such payment within the time herein provided, the Town Board may revoke any permit issued to the applicant until such charges have been paid. In the event that independent test results are found to vary significantly from the content of the sludge as presented by the applicant, applicant shall be prohibited from releasing said sludge and shall submit to a complete reevaluation of future sludge applications in the Town of Waukesha. Test results showing a greater content of metal than the established two percent (2%) maximum allowed shall constitute a significant variance under this paragraph. The Town Board shall be authorized as a condition of granting the permit to the applicant to conduct any other tests of the sludge and the sludge disposal sites as the Board determines necessary to prevent a public nuisance during the period that such sludge disposal is being conducted, and the applicant shall pay all costs and expenses incurred by the Town for such tests within thirty (30) days from the date of billing. In the event the applicant fails to make such payment within the time herein provided, the Town Board may revoke any permit issued to the applicant until such charges have been paid.
 - (k) **Testing.** The applicant shall present with its application for a permit the soil testing information sufficient in the opinion of the Town Board to determine the ability of the soil upon the premises described in the application to absorb sludge. The Town Board may also require a sludge analysis every time sludge is used. The manner and type of such soil test and sludge analysis shall be determined by the Town Board and all costs and expenses for such soil test and sludge analysis shall be paid by the applicant. All test results must be presented to the Town Board prior to the public hearing to be held on said application.
 - (l) **Bond.**
 - (1) Upon approval of application for issuance of a permit hereunder, but prior to the issuance

of the permit, the applicant shall file with the Town Clerk a surety bond in the amount of Ten Thousand Dollars (\$10,000), and proof of liability insurance conditioned upon and as a guarantee that the applicant will fully abide by the terms and conditions of this Chapter, the ordinances of the Town of Waukesha, and any rules and regulations imposed by the Town Board as a condition for the granting of such permit, and as a further guarantee that the applicant will be fully able to compensate any resident of the Town who might be injured or damaged by application of the sludge to the property site described in the application.

- (2) Notwithstanding anything contained herein to the contrary, the Town Board may waive the provisions of this Subsection where the applicant is a Wisconsin municipality.
- (m) **Notification.** Written notification must be given to the Town Clerk at the Town Hall located at W250 S3567 Center Road, Waukesha, Wisconsin 53186, and any residents within one thousand five hundred (1,500) feet of the site to be used and date or dates that sewerage sludge disposal will take place on such sites. Such notice shall include identification of the roads or highways to be used for the transport of such sludge disposal to the disposal site.
- (n) **Penalty.** Any person, firm or corporation who violates this Section shall be subject, upon conviction to a forfeiture of not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), together with the cost of prosecution, and, in default of payment of such forfeiture and costs, shall be imprisoned in the County Jail until such forfeiture and costs are paid, for a period not exceeding ninety (90) days.
- (o) **Separate Violations.** Each violation and each day a violation continues or occurs, shall constitute a separate offense.
- (p) **Cause for Withdrawal of Permit.** Any violation of this Section by a permittee will be cause for the Town Board to withdraw permits already issued.

CHAPTER 6

Sewage Holding Tanks

8-6-1	Sewage Holding Tanks; Public Policy
8-6-2	Approval of Plans and Specifications for Installation of Sewage Holding Tanks
8-6-3	System Maintenance; Inspections
8-6-4	Temporary Sewage Holding Tanks
8-6-5	Sewage Holding Tanks for Residential Uses

SEC. 8-6-1 SEWAGE HOLDING TANKS; PUBLIC POLICY.

The purpose of this Chapter is to provide for the construction and maintenance of commercial and industrial buildings in areas in which no public sewers are available, and where the soil conditions are such that a percolation test cannot be made which would satisfy the requirements of the Waukesha County Department of Environmental Resources and the plumbing code of the Town. This Chapter is established to allow the installation of holding tanks for low flow situations and only until such time as public sewers are available. Sewage holding tanks shall be allowed for existing and new commercial and industrial buildings. Sewage holding tanks for residential use shall be subject to the provisions of Section 8-6-5(a)-(b). Low flow is defined as 5,000 gallons of effluent or less in a three day period.

SEC. 8-6-2 APPROVAL OF PLANS AND SPECIFICATIONS FOR INSTALLATION OF SEWAGE HOLDING TANKS.

- (a) Plans and specifications for the installation of a sewage holding tank must be submitted to the Town Board and the Waukesha County Department of Environmental Resources by the owner of the real estate where said sewage holding tank is proposed to be installed for their approval; such approvals must be obtained before the proposed sewage holding tank is installed. In the event that the plans and specifications for the sewage holding tank have been approved by the Waukesha County Department of Environmental Resources and the Town Board of the Town of Waukesha as indicated herein and shall sign and agree to a Holding Tank Agreement prepared by the Town.

SEC. 8-6-3 SYSTEM MAINTENANCE; INSPECTIONS.

- (a) It shall be the responsibility of the owner to maintain the system at all times in good operating condition and remove the sewerage therefrom at such times as is required to maintain said system in good operating condition.
- (b) The Building Inspector may make periodic inspections of the facility and if he shall find any defect in the operation or maintenance of the system, or in the removal of sewerage therefrom, the owner shall correct the same within five (5) days after written notice from the Building Inspector, and if the owner fails to make such corrections within the time provided, the Town may then make such corrections and charge such cost and expense to the property owner as provided in this Chapter. The Town shall also charge an additional fifteen percent (15%) of the cost of such work to cover its administrative expenses.

- (c) If the Town shall be required to remove sewerage from the sewage holding tank because of the owner's failure to do so as required in the proper operation of the system, or if the Town shall be required to repair or service such sewage holding tank due to any neglect or deficiency by the owner, this shall constitute a violation of this Section and such violation, shall then subject the premises which is being served by the sewage holding tank to being condemned as "unfit for human habitation or occupancy."
- (d) (1) If the Town shall be required to remove sewerage from such sewage holding tank because of the owner's failure to do so at the times required for such removal in order to prevent such sewage holding tank from overflowing or becoming a public nuisance, or in the event the owner fails to make any needed or necessary repairs thereto or fails to properly maintain the same, the Town may then cause the removal of the sewerage from the sewage holding tank or make such repairs as may be necessary thereto and charge the total cost and expense to the owner as provided in this Chapter.

SEC. 8-6-4 TEMPORARY SEWAGE HOLDING TANKS.

- (a) The Town Board may authorize the installation and use of a temporary sewage holding tank for such properties where a mound system of sewage disposal has been approved by the Waukesha County Department of Environmental Resources.
- (b) Any property owner desiring to use a temporary sewage holding tank as herein provided shall make application therefor to the Town Board and submit plans and specifications for the proposed temporary sewage holding tank to be used.
- (c) At the time such application is filed, the applicant shall furnish a letter of credit, or such other form of security as is approved by the Town Attorney in an amount to be determined by the Town Board, to be retained by the Town as a guarantee that the mound system shall be completed and the use of the temporary sewage holding tank terminated. Such letter of credit or other form of security may be used by the Town to reimburse the Town for any expenses incurred in the inspection, operation, maintenance or pumping out of such temporary sewage holding tank in the event that the owner fails to do so, or any legal action required by the Town relating to the installation, operation and maintenance of the temporary sewage holding tank. The letter of credit or such other form of security made by the applicant shall be retained by the Town of Waukesha as long as the temporary sewage holding tank is in operation.
- (d) The use of such temporary sewage holding tank shall be limited to a period of nine (9) months or the succeeding August 1 following the date of the granting of such permit by the Town Board, whichever date occurs first.

SEC 8-6-5 SEWAGE HOLDING TANKS FOR RESIDENTIAL USE.

- (a) (1) Sewage holding tanks will be permitted for existing residential use where it has been determined by the Waukesha County Environmental Resources Department and the State Department of Commerce that the existing sewage disposal system upon the premises is inoperative and does not meet the requirements of the Waukesha County Department of Environmental Resources or the State Department of Commerce and that the construction of a new sewage disposal system or mound system or any type of alternate sewage disposal system will not be approved by the Waukesha County Department of Environmental Resources and the Wisconsin Department of Commerce. No permit shall be issued for a

sewage holding tank for existing residential use until a written report is filed with the Town Clerk from the certified soil tester indicating that a holding tank is the only solution acceptable to the Waukesha County Department of Environmental Resources and that no other alternative sewage disposal system would be approved. At the time such request is made to the Town Board for a sewage holding tank permit as provided in this Section the applicant shall file with the Town Clerk all papers and other documents that he has filed or received from the State Department of Commerce and County Department of Environmental Resources or any other appropriate governmental agency that he has applied to for approval of an alternate sewage disposal system, including a mound system. No sewage holding tank will be permitted if the county and the state have approved an alternate sewage system, including a mound system for the property involved.

- (2) No sewage holding tanks will be permitted for any new residential construction in the Town and the sewage holding tanks provided for in this Chapter shall be limited only to use of existing residential premises which cannot be served by an alternate type of sewage disposal system of the type approved by the Waukesha County Department of Environmental Resources and the Wisconsin Department of Commerce.
- (b) (1) Plans and specifications for the construction of sewage holding tank for residential use as herein provided must be submitted to the Town Board of the Town of Waukesha and the Waukesha County Department of Environmental Resources by the owner of the real estate where said holding tank is proposed to be installed for their approval. Before the Town Board acts on said plans, the same shall be referred to the Town Plan Commission for their review and recommendation to the Town Board. Such approvals must be obtained before the proposed holding tank is installed. At the time of the filing of the plans and specifications for such sewage holding tank with the Town Board, the owner of the premises where said sewage holding tank is proposed to be installed shall sign and agree to a Holding Tank Agreement prepared by the Town.
- (2) In the event that the Town Board incurs expenses in connection with the maintenance and operation of said holding tank, notice thereof shall be given to the property owner and the property owner shall pay the amount of such expenses incurred by the Town to the Town Clerk within thirty (30) days from the date of billing therefor. In the event such amount owed to the Town is not paid, the total amount paid by the Town, shall be placed on the next succeeding tax roll as a special assessment against said property and shall be paid the same as other real estate taxes assessed against said property.
- (c) The owner of any residential premises being served by a sewage holding tank shall file with the Town Clerk a quarterly written report indicating the number of times that the sewage holding tank on said premises has been pumped during the preceding quarter, the amount of sewage removed from such sewage holding tank, the name and address of the person, firm or corporation pumping said sewage holding tank and any other information that the Town Board might require. The owner of the sewage holding tank shall be required to sign an agreement before approval of such sewage holding tank acknowledging the above condition regarding filing of quarterly reports and a written commitment to the effect that the owner will file such reports as indicated by this Chapter. Any failure of the owner to file such quarterly reports as required by this Chapter, shall constitute a violation of this Chapter and subject the owner to the penalties as provided as in Section 1-1-6.
- (d) The provisions of Sections 8-6-2, 8-6-3 and 8-6-4 of this Code of Ordinances shall apply to sewage holding tanks for residential use as provided in this Chapter and insofar as said provisions are not in conflict with the provisions of this Chapter.

CHAPTER 7

WATER SUPPLY PROTECTION ACT

8-7-1	Short Title
8-7-2	Authority
8-7-3	Findings
8-7-4	Definitions
8-7-5	Prohibition Against Large Scale Water Withdrawals Having an Adverse Effect on a Water Supply
8-7-6	Effect on Building Permit Applications
8-7-7	Water Impact Study and Water Impact Study Report
8-7-8	Effect of Water Impact Study
8-7-9	Effect of Excessive Large-Scale Water Withdrawal
8-7-10	Injunction Against Water Withdrawal
8-7-11	Public Hearing on Building Permit Application
8-7-12	Final Action on Building Permit Application Supported by Water Impact Study Report
8-7-13	Revocability of Building Permit
8-7-14	Severability
8-7-15	Enforcement and Penalty

SEC. 8-7-1 SHORT TITLE.

The name of this Ordinance shall be the "Town of Waukesha Water Supply Protection Act."

SEC. 8-7-2 AUTHORITY.

This Ordinance is adopted and enacted pursuant to the authority granted to the Town of Waukesha by all relevant State and Federal laws and administrative regulations, including, but not limited to the authority granted the Town pursuant to Wis. Stat. §§ 60, 62 and 66, which authorize the Town to enact ordinances dealing with the protection and preservation of the health and safety of the Town residents, and to prevent and abate public and private nuisances.

SEC. 8-7-3 FINDINGS.

The Town Board of the Town of Waukesha makes the following findings in support of the passage of this Ordinance. The Town Board finds:

That private wells serving residential and small business uses may be threatened by new uses which propose large scale withdrawals of water from Town water resources;

That water supplies within the Town are limited and should be protected to afford the greatest beneficial use to Town citizens and existing businesses, which depend on current water supplies for their livelihood, health, welfare, and economic production;

That taking steps to ensure clean, wholesome, and adequate water supplies to the residents of the Town is a high priority in protecting the health, safety, and welfare of Town residents;

That, therefore, proponents of any new construction or new use which is likely to result in large-scale water withdrawals should be required to show that those withdrawals will not adversely affect water supplies currently being used by Town residents and existing businesses in the Town; and

That if a proposed new construction or new use will adversely affect water supplies in the Town, such proposed new construction or new use shall be disallowed or discontinued.

SEC. 8-7-4 DEFINITIONS.

“Adversely affect” or “adversely impact” - Diminution in the quantity or quality of a water supply.

“Large-scale water withdrawal” - Any withdrawal of water from a water source within the Town of Waukesha that consumes more than 5,000 gallons of water per any 24 hour period, or any proposed withdrawal of water from a water source within the Town of Waukesha that is anticipated to consume more than 5,000 gallons of water per any 24 hour period.

“New construction or new use” - Any new land development that results in increased water withdrawal or consumption.

“Ordinance” -- Town of Waukesha Water Supply Protection Act.

“Town” – Town of Waukesha, including the Town Board.

“Water Impact Study” -- A comprehensive study performed by two certified hydrologists holding a Ph.D. in the field, which evaluates the impact of proposed new construction or new use on private and public well water supplies within a three mile radius of the proposed new construction or new use. A listing of acceptable hydrologists and firms employing certified hydrologists will be maintained by the Town and will be made available to prospective building permit applicants. The two hydrologists employed by the prospective building permit applicants shall be employed by different firms or independent practices.

“Water Impact Study Report” - A report of professional quality written in plain, understandable English, that describes a Water Impact Study and the findings and/or results of the Study.

“Water Supply”-Any source of water that is serving one or more water wells, whether public or private, and any public water or municipal water system

SEC. 8-7-5 PROHIBITION AGAINST LARGE-SCALE WATER WITHDRAWALS HAVING AN ADVERSE AFFECT ON A WATER SUPPLY.

No person or entity proposing new construction or new use on real property located within the Town, which will result in large-scale water withdrawals, shall adversely affect private or public well water supplies within a three mile radius of the proposed new construction or new use.

Any large-scale water withdrawal having an adverse affect on a private or public well water supply, and any violation of this Ordinance, is hereby declared to be a public nuisance.

SEC. 8-7-6 EFFECT ON BUILDING PERMIT APPLICATIONS.

Prior to submitting a building permit application to the Town, any person or entity proposing new construction or new use on real property located within the Town shall first determine the amount of water consumption that such new construction or new use would result in on an average daily basis. In the case of an industrial facility, the water consumption determination shall be based on the facility's maximum operating potential during a 24 hour period.

If a prospective building permit applicant determines that the proposed new construction or new use will result in, or is likely to result in, large-scale water withdrawal, the prospective applicant shall ensure that a Water Impact Study is conducted prior to submitting the building permit application. Following completion of a Water Impact Study, a building permit applicant for new construction or new use shall submit a Water Impact Study Report along with the building permit application at the time the application is submitted.

If the Town Board, or the building inspector, independently determines that proposed new construction or new use will result in, or is likely to result in, large-scale water withdrawal, the building permit application process shall be suspended until a Water Impact Study is conducted and the applicant submits a Water Impact Study Report to the Town. Any determination that a Water Impact Study is required shall be promptly communicated to a building permit applicant.

Water Impact Study requirements contained herein shall supersede and toll any mandatory issuance deadlines imposed by other Town ordinances.

SEC. 8-7-7 WATER IMPACT STUDY AND WATER IMPACT STUDY REPORT.

The Water Impact Study required by this Ordinance shall be conducted by two certified hydrologists holding a Ph.D. in the field, and approved by the Town Board. The costs associated with conducting the Water Impact Study, as well as the costs of preparing and submitting the Water Impact Study Report to accompany a building permit application, shall be borne in their entirety, by the prospective applicant for a building permit.

SEC. 8-7-8 EFFECT OF WATER IMPACT STUDY.

If a Water Impact Study Report demonstrates to the Town Board's satisfaction that the proposed new construction or new use will not have an adverse affect on the water supply of wells within a three mile radius of the proposed new construction or new use, then the Town shall process the building permit application in the normal fashion.

If a Water Impact Study Report demonstrates to the Town Board's satisfaction that the proposed new construction or new use will have an adverse affect on the water supply of wells within a three mile radius of the proposed new construction or new use, then the Town shall deny the building permit application.

SEC. 8-7-9 EFFECT OF EXCESSIVE LARGE-SCALE WATER WITHDRAWAL.

If the Town Board determines, during the course of operation of new construction or new use, that a previously productive well fails to yield water as a result of; or is otherwise adversely affected by, large-scale water withdrawal of the new construction or new use, the Town may require the building permittee, the owner/operator of the new construction or new use, and/or the landowner of the property where the new construction or new use is situated, to compensate the adversely affected well owner for the expense of drilling a new well, or otherwise obtaining an adequate replacement supply of potable water. An

adequate replacement supply shall be determined by the number of gallons per day which was previously used by the adversely affected well owner.

Nothing in this Section is intended, nor shall be construed, as abridging, limiting, or otherwise affecting any private cause of action that an adversely affected well owner may have. Further, any activity or condition declared to be a public nuisance by this Ordinance shall be abatable in the manner provided by law, or equity for the abatement of public nuisances.

SEC. 8-7-10 INJUNCTION AGAINST WATER WITHDRAWAL.

If the Town Board determines, during the course of operation of new construction or new use, that two or more productive wells fail to yield water as a result of, or are otherwise adversely affected by, large-scale water withdrawal related to the new construction or new use, the Town Board shall have the authority to enjoin water withdrawal by the new construction or new use.

SEC. 8-7-11 PUBLIC HEARING ON BUILDING PERMIT APPLICATION.

Within 14 days after the submission of a building permit application supported by a Water Impact Study Report, the Town shall conduct a public hearing and receive comments from the public on the proposed new construction or new use. At this public hearing, Town residents shall have an opportunity to submit information in support of, or in opposition to, the Water Impact Study Report submitted by the building permit applicant.

The Town shall make copies of the Water Impact Study Report available to the public at least five business days prior to the public hearing.

SEC. 8-7-12 FINAL ACTION ON BUILDING PERMIT APPLICATION SUPPORTED BY WATER IMPACT STUDY REPORT

Within 14 days after the public hearing required by Section 11 of this Ordinance, the Town Board shall make a final decision to approve or deny a building permit application supported by a Water Impact Study Report.

SEC. 8-7-13 REVOCABILITY OF BUILDING PERMIT.

If the Town Board determines that information contained within the Water Impact Study Report was misleading, factually inaccurate, or that a building permit applicant purposefully omitted essential information which would have altered the final decision made by the Town Board to issue a building permit, the Town Board shall revoke the building permit and initiate legal action to enjoin the building permittee from continuing with construction or operation of the new construction or new use.

SEC. 8-7-14 SEVERABILITY.

The provisions of this Ordinance are severable, and if any section, clause, sentence, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect, impair, or invalidate any of the remaining sections, clauses, sentences, parts, or provisions of this Ordinance. It is hereby declared to be the intent of the Town Board that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional section, clause, sentence, part, or provision had not been included herein.

SEC. 8-7-15 ENFORCEMENT AND PENALTY.

Any person who violates the provisions of this Chapter shall be subject to a forfeiture of not less than \$250.00, nor more than \$1,000.00 per day, and each day that a violation continues shall constitute a separate violation of this Ordinance. In addition to all other penalties imposed by this Chapter, the Town may seek injunctive relief to abate any public or private nuisance caused by violation of this Ordinance. The cost of abating the nuisance shall be collected as a debt from the owner, occupant, or person owning the property, or causing or permitting or maintaining the nuisance, as the case may be, and such cost shall be assessed against the real estate as a special charge, and shall be placed on the real estate tax bill and collected with all other real estate taxes and assessments due and owing.