

Chapter 34 SOLID WASTE*

***Cross references:** Buildings and building regulations, ch. 10; mobile homes and mobile home parks, § 14-301 et seq.; environment, ch. 22; littering, § 22-1; utilities, ch. 54.

State law references: Solid waste, Wis. Stats. chs. 287, 289, 291.

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ARTICLE I. IN GENERAL

Sec. 34-1. Penalty.

Except as otherwise provided in this chapter, any person who shall violate any provision of this chapter, or any order, rule or regulation made hereunder, upon conviction thereof, shall be subject to a penalty as provided in section 1-14.

(Code 1982, § 11.10)

Secs. 34-2--34-30. Reserved.

ARTICLE II. COLLECTION AND DISPOSAL

DIVISION 1. GENERALLY

Sec. 34-31. Purpose.

The purpose of this article is to regulate the dumping or disposal of waste, garbage, refuse and sludge by individuals, corporations, municipalities and counties within the town. Because of the possible danger to the health, safety and welfare of the public, such dumping or disposal within the town shall only be permitted under the terms and conditions set forth in this article, and such terms and conditions shall constitute preexisting local approvals as authorized by law. This article shall apply to any dump or disposal site located in the town and to the expansion of any dump or disposal sites which may exist in the town on the date of the adoption of the ordinance from which this article derives.

(Code 1982, § 11.07(1))

Sec. 34-32. Definitions.

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

Discharge means, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying or dumping.

Disposal means, but is not limited to, the discharge, deposit, injection, dumping or placing of any waste, garbage, refuse or sludge into or on any land or water in any manner which may permit the waste, garbage, refuse or sludge, or any constituent thereof, to be admitted into the air, to be discharged into any waters of the state or otherwise to enter the environment. The term "disposal" does not include transportation, storage or treatment of waste, garbage, refuse or sludge.

Disposal site. See "Dump."

Disposer. See "Dumper."

Dump means the facility for waste treatment, waste storage or waste disposal, and includes commercial, industrial, municipal, state and federal establishments or operations such as, without limitation because of enumeration, sanitary landfills, dumps, land disposal sites, incinerators, transfer stations, storage facilities, collection and transportation services and processing, treatment and recovery facilities. The term "dump" includes the land where the facility is located. This term "dump" does not include a facility for the processing of scrap iron, steel or nonferrous metal using large machines to process a principal product of scrap metal for the sale or use for remelting purposes; a facility which uses large machines to sort, compact or bale clean wastepaper, fibers or plastic, not mixed with other waste for sale or use for recycling purposes; nor any auto junkyard or scrap metal salvage yard.

Dumper means any individual, corporation, municipality or county who, or which, performs the act of dumping or disposal as defined in this section.

Dumping means, but is not limited to, unloading, throwing away, discarding, emptying, abandoning, discharging, burning or burying waste, garbage, refuse or sludge on, into or under any property or lands, whether publicly or privately owned, within the town.

Fly ash means the powdery mineral residue removed from the noncombustible portion of fuel that escapes with the exhaust gas and is collected by air pollution control equipment.

Garbage means discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.

Leachate means water or other liquid which has been contaminated by dissolved or suspended materials due to contact with waste or gases therefrom.

Municipality means any town, village, city or county, as well as any utility district, sanitary district, public inland lake protection and rehabilitation district or metropolitan sewage district.

Open burning means combustion of solid waste where the products of combustion are admitted directly to the ambient air without passing through a stack or chimney. The term "open burning" does not include the combustion occurring at a properly operated air curtain destructor or incinerator.

Person means an individual, corporation, municipality or other legal entity, partnership and any unincorporated association.

Refuse means combustible and noncombustible discarded material including, but not limited to, trash, rubbish, paper, wood, metal, glass, plastic, rubber, cloth, ashes, litter and street rubbish, industrial waste, dead animals, mine tailings, gravel pit and

quarry spoils, toxic and hazardous wastes, and material and debris resulting from construction or demolition.

Sludge means any solid, semisolid or liquid residue generated from municipal, commercial or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility.

Storage means the holding of waste for a temporary period at the end of which the waste is to be treated or disposed.

Treatment means a method, technique or process which is designed to change the physical, chemical or biological character or composition of waste. The term "treatment" includes incineration.

Waste means garbage, refuse and all other discarded or salvageable materials, including waste materials resulting from industrial, commercial and agricultural operations and from domestic use and public service activities.

Waste, hazardous, means any waste identified by the state department of natural resources as hazardous.

(Code 1982, § 11.07(2))

Cross references: Definitions generally, § 1-2.

Secs. 34-33--34-50. Reserved.

DIVISION 2. DISPOSAL

Subdivision I. In General

Sec. 34-51. State law to apply.

Nothing contained in this division shall be deemed to limit or restrict the application of any state law or administrative regulation of any state agency regulating the subject of this article.

(Code 1982, § 11.07(15))

Sec. 34-52. References.

References to the terms "person," "individual," or like references shall be deemed to refer to a person, sole proprietorship, corporation and a municipality, and also to a responsible member, officer or managing agent of any single proprietorship, partnership, corporation or municipality, unless the context clearly indicates otherwise.

(Code 1982, § 11.07(16))

Sec. 34-53. Public and private nuisance.

Notwithstanding any provision of this article, the town, or its citizens, may

maintain an action under Wis. Stats. § 841.01 or Wis. Stats. ch. 823 for public or private nuisance or physical injury to their property caused by or alleged to have been caused by the dump or disposal site.

(Code 1982, § 11.07(17))

Sec. 34-54. Prohibited discharges.

No person shall discharge or cause to be discharged, leaked, leached or spilled upon any public street, alley or public property or onto the ground, surface waters, subsurface waters or aquifers or on any private property within the town, except those areas specifically licensed for waste disposal or landfill activities and to receive such materials; any explosive, flammable or combustible solid, liquid or gas; any radioactive material at or above nuclear regulatory restriction levels, etiologic agents; or any solid, liquid or gas creating a hazard, potential hazard or public nuisance or any solid, liquid or gas having a deleterious effect on the environment.

(Code 1982, § 11.08(1))

Sec. 34-55. Containment, cleanup and restoration.

Any person in violation of section 34-54 shall, upon direction of any emergency government officer, begin immediate actions to contain, cleanup and remove to an approved repository the offending materials and restore the site to its original condition, with the offending person being responsible for all expenses incurred. Should any person fail to engage the necessary men and equipment to comply or to complete the requirements of this division, the office of emergency government may order the required actions to be taken by public or private resources and allow the recovery of any and all costs incurred by the town from the offending person.

(Code 1982, § 11.08(2))

Sec. 34-56. Site access.

Access to any site, public or private, where a prohibited discharge is indicated or suspected will be provided to emergency government officers and staff and town police and fire department personnel for the purpose of evaluating the threat to the public and monitoring containment, cleanup and restoration activities.

(Code 1982, § 11.08(3))

Sec. 34-57. Public protection.

Should any prohibited discharge occur that threatens the life, safety or health of the public at, near or around the site of a prohibited discharge and should the situation be so critical that immediate steps must be taken to protect life and limb, the emergency government coordinator, his assistant or the senior town police or fire officer on the scene of the emergency may order an evacuation of the area or take other appropriate protective steps for a period of time until the town board can take appropriate action.

(Code 1982, § 11.08(4))

Sec. 34-58. Enforcement.

The emergency government coordinator and his deputies, as well as the town constable or police officers, shall have authority to issue citations or complaints under this division.

(Code 1982, § 11.08(5))

Sec. 34-59. Civil liability.

Any person in violation of this division shall be liable to the town for any expenses incurred by the town or loss or damage sustained by the town by reason of such violation.

(Code 1982, § 11.08(6))

Sec. 34-60. Substitute performance.

If, after reasonable demand by the town board, a dumper/disposer does not comply with the terms and conditions of this division or the dumping or disposal plan for his dump or disposal site, the town board shall have the right (but shall not be required) to correct the violation and charge the expense of such correction to the dumper/disposer, including levying against any bond provided by the dumper/disposer. If the dumper/disposer fails to act after reasonable notice is given by the town board, his application for a dumping or disposal permit shall grant the town the right to go on the land or disposal site and carry out the dump or disposal plan or perform the duties of dumper/disposer as imposed by this division.

(Code 1982, § 11.07(6))

Sec. 34-61. Reimbursement for expenses.

All dumpers/disposers shall reimburse the town within 30 days of receipt of documented invoices for all reasonable expenses, including fees and disbursements for legal, consulting and expert advice incurred by the town as a result of the construction, transportation to and from, operation, maintenance, closure and longterm care of a dump or disposal site located within the town, or as a result of the enforcement of this division in connection with a dump or disposal site located within the town. As used in this section, the term "expenses" may include, but are not limited to, the following:

- (1) Per diem costs of town officers and town employees' salaries.
- (2) Fire protection.
- (3) Police protection.
- (4) Ambulance protection.
- (5) Municipal insurance protection.
- (6) Roadway repair, maintenance and construction.
- (7) Arbitration expenses.

(Code 1982, § 11.07(7))

Secs. 34-62--34-80. Reserved.

Subdivision II. Permit

Sec. 34-81. Required.

- (a) Except as expressly permitted in section 34-82, no individual, corporation, municipality or county shall dump or dispose of waste, garbage, refuse or sludge within the town unless a permit to engage in such dumping or disposal is first obtained from the town under the conditions prescribed in this subdivision.
- (b) Except as expressly permitted in section 34-82, no individual, corporation, municipality or county shall maintain or operate a dump or disposal site, or any place for the disposal, storage or treatment of waste, garbage, refuse or sludge within the town unless a permit for such operation is first obtained from the town under the conditions prescribed in this subdivision, and no individual, corporation, municipality or county shall maintain, operate or permit the maintenance or operation of any such place in violation of any provision of this article.

(Code 1982, § 11.07(3))

Sec. 34-82. Exceptions.

The following shall not be deemed to come within the scope or meaning of this division:

- (1) A site used for the dumping or disposal of waste, garbage or refuse from a single family or household, a member of which is the owner, occupant or lessee of the property, provided the waste, garbage or refuse is placed in suitable containers or stored in such other way as not to cause a public or private nuisance.
- (2) The use of sanitary privies and what are commonly known as seepage beds or septic tanks, which conform to the applicable ordinances of the town, or the discharge of human waste products into any public sewage system located within the town.
- (3) A farm on which only animal waste resulting from the operation of the farm is disposed.
- (4) Any dumping operation under the direction and control of the town.

(Code 1982, § 11.07(4))

Sec. 34-83. Application.

Applications for permits under this division shall be filed on a form provided by the clerk-treasurer along with the appropriate bond and/or insurance and application fees, which application shall contain the following information:

- (1) Name, address and telephone number of applicant.
- (2) Location and legal description of the proposed dump or disposal site.

- (3) Name, address and telephone number of responsible agent for applicant.
- (4) Name, address and telephone number of engineer for applicant.
- (5) The type, source of and amount of waste estimated on a daily basis for the projected dump or disposal site.
- (6) Estimated times of construction, operation and closure of the proposed dump or disposal site.
- (7) Estimated total acreage for the proposed dump or disposal site and estimated active fill area during the life of the proposed dump or disposal site.
- (8) Prior experiences in construction, operation and maintenance of a dump or disposal site, citing specifically names, dates and locations of those facilities.
- (9) Any available initial site reports, feasibility reports or plan of operations filed with the state department of natural resources.
- (10) Statement authorizing the town board and its agents to enter the proposed dump or disposal site for inspection of premises during the periods of application, operation, construction, maintenance and closure of the dump or disposal site.
- (11) A signed statement by the applicant in a form satisfactory to the town board wherein the applicant agrees that the applicant, its agents and servants will save harmless, indemnify and defend the town, its officers, agents and servants from any costs and expenses incurred through the failure of the applicant, its agents and servants to transport to and from, construct, operate, maintain and close the dump or disposal site as required by this division, federal and state law and regulation during the time of the requested permit and thereafter, and wherein the applicant further agrees to save harmless, indemnify and defend the town, its officers, agents or servants from any claim for damages due to the negligence and/or an intentional act of the applicant, its agents or servants during the period of the requested permit or thereafter.

(Code 1982, § 11.07(8))

Sec. 34-84. Public hearing.

There shall be a public hearing on any application for a permit to engage in dumping or disposal operations. The application shall be on file with the clerk-treasurer at least 60 days before the public hearing. The public hearing shall be conducted under the following terms:

- (1) Notice shall be given as a class 3 notice as described in Wis. Stats. § 985.07.
- (2) The cost of publication of such notice shall be deposited by the applicant in advance.
- (3) A public hearing shall be held on the date specified in the notice or any adjourned date; however, such public hearing shall be merely advisory in

regard to affecting any action which may be taken by the town board upon such application.

(Code 1982, § 11.07(9))

Sec. 34-85. Bond.

- (a) The town board shall have the right to require the applicant to furnish the town with a bond and/or an insurance policy in such amounts as shall be determined by the town board, to ensure the following:
 - (1) The applicant, its agents and servants, will comply with all of the terms, conditions, requirements and specifications contained in this division.
 - (2) The applicant, its agents and servants, will faithfully operate the dump or disposal site for which the permit is issued in accordance with the provisions of this division.
 - (3) The applicant, its agents and servants, will save harmless, indemnify and defend the town from any costs or expenses incurred through the failure of the applicant, its agents and servants, to operate, construct, transport to and from, maintain and close the dump or disposal site as required by this division, federal and state law and regulation, including any cost or expense the town may be put to for correcting any condition or violation of this division whenever the town board determines it is necessary for the town to correct any condition or violation of this division, or from any damages due to the negligence and/or an intentional act of the applicant, its agents or servants.
 - (4) The applicant, its agents and servants will pay any and all penalties imposed as a result of the failure of the applicant, its agents and servants to comply with all of the terms, conditions, requirements and specifications contained in this division.
- (b) Before acceptance, all bonds and/or insurance policies shall be approved by the town board. If a corporate bond or insurance policy is issued, it shall be executed by a company authorized to transact business in the state as a surety. If a cash bond is offered, it shall be deposited with the clerk-treasurer who shall give official receipt therefor, reciting that such cash has been deposited in compliance with and subject to the provisions of this division. Failure to maintain an approved bond and/or insurance policy during the period of the permit shall automatically invalidate the permit and the town board shall have the right to obtain a court order terminating the dumping or disposal operation.

(Code 1982, § 11.07(10))

Sec. 34-86. Issuance.

- (a) The application for a permit shall be processed within 120 days of the receipt thereof, and shall be issued if the town board is satisfied that there has been and will be reasonable compliance with the conditions and regulations enumerated in this division.
- (b) If Wis. Stats. ch. 289 is applicable to the applicant, the town board shall specify

all local approvals, including this division. The town board shall then adopt a citing resolution and commence the negotiation/arbitration process prior to any approval or disapproval under this division. The 120-day period for the application process shall not be applicable under such circumstances until a negotiated agreement has been signed or until an arbitration award has been forwarded to the town board.

- (c) All permits under this division shall be effective and issued for the period from July 1 to June 30 of each year. All applicants shall reapply to the clerk-treasurer for the annual license at least 120 days in advance of the June 30 deadline. The criteria established for reapplication and issuance shall be the same as the criteria established for the initial license.
- (d) If approved by the town board, the permit shall be issued by the clerk-treasurer upon the applicant's compliance with any and all conditions placed upon the issuance of the permit by the town board.

(Code 1982, § 11.07(11))

Sec. 34-87. Application fees.

The application fee for a new permit under this subdivision shall be \$1,500.00 and shall be paid upon filing the application with the clerk-treasurer. The application fee for a renewal permit shall be \$500.00 and shall be due annually July 1 of each year.

(Code 1982, § 11.07(12))

Sec. 34-88. Revocation.

Any permit issued under the provisions of this subdivision may be revoked by the town board for any violation of law or ordinance pertaining to the dumper/disposer or the transportation to or from, construction, operation, maintenance and closure of the dump or disposal site. The permit issued under this subdivision may be revoked by the town board only after a public hearing held by the town board upon a published class 1 notice as defined in Wis. Stats. § 985.07. The town board, if necessary, may, at any time, seek a court order terminating the transportation to and from, storage, treatment or disposal at the dump or disposal site for any violation of this division, or due to the establishment of a public nuisance.

(Code 1982, § 11.07(13))

Secs. 34-89--34-110. Reserved.

Subdivision III. Regulations Generally

Sec. 34-111. Compliance with regulations.

Except as otherwise provided in this subdivision, individuals, corporations, municipalities and counties who are permitted to dump or dispose of waste, garbage, refuse or sludge within the town or engage in dumping or disposal operations within the town, shall be subject to the regulations in this subdivision.

(Code 1982, § 11.07(5))

Sec. 34-112. Nuisance prohibited.

The dumping or disposal operation shall be conducted in such a way as to not constitute a public or private nuisance.

(Code 1982, § 11.07(5)(a))

Sec. 34-113. Disposal operations permitted in agricultural or industrial zoned areas.

The dumping or disposal operations shall be permitted only in the agriculturally or industrially zoned areas as set forth on the official zoning map of the county.

(Code 1982, § 11.07(5)(b))

Sec. 34-114. Hours of disposal operations.

Any dumping or disposal operations within the town may be open for business only between 7:30 a.m. and 4:30 p.m. from Monday through Saturday and shall be closed for business for all other hours and days including legal holidays.

(Code 1982, § 11.07(5)(c))

Sec. 34-115. Attendants at dump or disposal site.

The dumper/disposer shall maintain an attendant at the dump or disposal site at all times when opened to the public and shall provide an "on call" attendant during times and dates when the dumping or disposal operation will be closed. The dumper/disposer shall inform the clerk-treasurer in writing of the names, telephone numbers and addresses of all attendants and the name, telephone number and address of the responsible agent for the dumper/disposer and shall further notify the clerk-treasurer in writing of any changes therein within 48 hours of any such change.

(Code 1982, § 11.07(5)(d))

Sec. 34-116. Maximum height of dump or disposal site; filling of holes or ponds.

The dumper/disposer shall not extend the maximum height of the dump or disposal site higher than the height required to comply with the slope requirements of the state department of natural resources. All holes or ponds shall be filled by the dumper/disposer to existing topography, except for active fill areas.

(Code 1982, § 11.07(5)(e))

Sec. 34-117. Distance from property lines of dump or disposal site.

The dumper/disposer shall not construct or operate the active fill area of a dump or disposal site closer than 100 feet from adjacent property lines.

(Code 1982, § 11.07(5)(f))

Sec. 34-118. Perimeter fences for disposal site.

The dumper/disposer shall build and maintain all line fences around the perimeter of the dump or disposal site for security and safety, which fences shall be at least five feet in height.

(Code 1982, § 11.07(5)(g))

Sec. 34-119. Mobile chainlink fences for disposal site.

The dumper/disposer shall build and maintain mobile chainlink fences at least eight feet in height around the active fill area in the dump or disposal site to prevent windblown paper and waste, garbage or refuse from leaving the active fill area.

(Code 1982, § 11.07(5)(h))

Sec. 34-120. Signage for disposal site.

The dumper/disposer shall post no signs in the town noting the existence of the dump or disposal site, or its location, except one sign at the entrance to the dump or disposal site. The sign shall be built and posted prior to the commencement of the operation of the dump or disposal site and shall be maintained until closure. The sign shall contain in large letters "NO HAZARDOUS WASTE, FLY ASH OR SLUDGE ALLOWED."

(Code 1982, § 11.07(5)(i))

Sec. 34-121. Maintenance of disposal site roads.

The dumper/disposer shall construct and maintain all roads within the dump or disposal site with an all-weather blacktop surface which shall be maintained dust free.

(Code 1982, § 11.07(5)(j))

Sec. 34-122. Locking of gates at dump or disposal site.

The dumper/disposer shall keep all gates to the dump or disposal site closed and locked, except during business hours.

(Code 1982, § 11.07(5)(k))

Sec. 34-123. Cutting of weeds and grass within dump or disposal site.

The dumper/disposer shall cut weeds and grass within the dump or disposal site in accordance with the requirements of the weed ordinances of the town.

(Code 1982, § 11.07(5)(l))

Sec. 34-124. Maintenance of removed topsoil.

The dumper/disposer shall maintain at the dump or disposal site all topsoil removed during construction, operation and maintenance of the dumping or disposal operation.

(Code 1982, § 11.07(5)(m))

Sec. 34-125. Berms around disposal site.

The dumper/disposer shall establish berms around the active fill area within the dump or disposal site and those berms shall be at least eight feet above the active fill area at all times.

(Code 1982, § 11.07(5)(n))

Sec. 34-126. Runoff or erosion from disposal site.

The dumper/disposer shall not cause, suffer or permit surface water runoff or erosion onto adjacent landowners from the dump or disposal site and upon notice from an adjacent landowner or the town board to the dumper/disposer of any surface water runoff or erosion, the dumper/disposer shall, within seven days, abate the runoff or erosion. No standing water shall be allowed at the dump or disposal site.

(Code 1982, § 11.07(5)(o))

Sec. 34-127. Compaction of waste and refuse.

The dumper/disposer shall, on at least a daily basis, compact all waste, garbage and refuse, and cover the waste, garbage and refuse with at least six inches of soil. The dumper/disposer shall immediately cover with at least 12 inches of soil all putrescible materials. The dumper/disposer shall ensure proper compaction by balling the waste, garbage and refuse, and/or a minimum of five passes by compacting equipment over each layer of waste, garbage and refuse.

(Code 1982, § 11.07(5)(p))

Sec. 34-128. Firefighting equipment at disposal site.

The dumper/disposer shall keep and maintain adequate fire fighting equipment at the dump or disposal site. The dumper/disposer shall not allow open burning at the dump or disposal site.

(Code 1982, § 11.07(5)(q))

Sec. 34-129. Control and extermination of insects and rodents at disposal site.

The dumper/disposer shall control and exterminate the insects and rodents at the dump or disposal site.

(Code 1982, § 11.07(5)(r))

Sec. 34-130. Security personnel for disposal site.

The dumper/disposer shall provide adequate security personnel for the dump or disposal site and shall provide automatic security lights within the dump or disposal site for use during hours of darkness.

(Code 1982, § 11.07(5)(s))

Sec. 34-131. Cleaning of leachate collecting systems.

The dumper/disposer shall clean all leachate collecting systems as needed so as to prevent the overflow, spilling, leaking and/or seepage of leachate onto and/or into the surrounding soils. Leachate removed from any leachate collecting system shall be tested immediately following each cleaning and the dumper/disposer shall file the test results with the clerk-treasurer within three days after receipt of the results.

(Code 1982, § 11.07(5)(t))

Sec. 34-132. Recycling, source separation and baling.

The dumper/disposer shall implement at the dump or disposal site recycling, source separation and baling to reduce the amount and volume of waste, garbage or refuse disposed in the dump or disposal site.

(Code 1982, § 11.07(5)(u))

Sec. 34-133. Storage of materials at disposal site.

The dumper/disposer shall attempt to obtain from the state department of natural resources an exemption to allow for separate storage of recycled materials. These materials shall be stored not to exceed the storage requirements established by the state department of natural resources or the town board, whichever are more stringent. Materials stored at the dump or disposal site shall be stored to prevent harborage.

(Code 1982, § 11.07(5)(v))

Sec. 34-134. Use of incinerators, air curtain destructors or compactors; approval.

The dumper/disposer shall obtain an operating license for the use of incinerators, air curtain destructors and/or compactors from the state department of natural resources under Wis. Admin. Code ch. NR 180, or its successors, prior to application for a permit under this division. Any dumper/disposer exempt under the provisions of Wis. Admin. Code ch. NR 180, or its successors, shall gain approval from the town board for use of these devices at the time of application.

(Code 1982, § 11.07(5)(w))

Sec. 34-135. Routes of travel to disposal site.

The dumper/disposer, as well as all individuals, corporations, municipalities and counties transporting to and from the dump or disposal site, shall be required to use only the routes of travel as authorized by the town board.

(Code 1982, § 11.07(5)(x))

Sec. 34-136. Limitation on hours of transportation to disposal site.

No individual, corporation, municipality or county transporting to or from a dump or disposal site within the town shall travel to or from the site before 7:00 a.m. and after 5:00 p.m. on authorized days of operation. The town board may establish and limit the time and number of vehicles entering and exiting the dump or disposal site.

(Code 1982, § 11.07(5)(y))

Sec. 34-137. Removal of litter, waste and garbage on designated disposal roadways.

The dumper/disposer shall police, on a daily basis, the designated or alternate roadways and other rights-of-way to the dump or disposal site and remove any litter, waste, garbage, mud or debris on the designated roadways, alternate roadways and rights-of-way.

(Code 1982, § 11.07(5)(z))

Sec. 34-138. Removal of discharges associated with disposal site.

The dumper/disposer shall be responsible for removal and any damages resulting from any and all discharges of waste, garbage, refuse or sludge on the designated or alternate roadways and rights-of-way and public or private lands within the town, due to transportation to and from the dump or disposal site. The dumper/disposer shall immediately notify the clerk-treasurer and state department of natural resources as to any discharges. Discharges shall be removed within 48 hours of notice of such discharge.

(Code 1982, § 11.07(5)(aa))

Sec. 34-139. Maintenance and repair of roadways to disposal site.

The dumper/disposer shall be required to maintain and repair, to town standards, those portions of the designated or alternate roadways and rights-of-way under town jurisdiction which are used by vehicles to transport to and from the dump or disposal site.

(Code 1982, § 11.07(5)(ab))

Sec. 34-140. Compliance with weight limitations and traffic regulations on roadways to disposal site.

The dumper/disposer shall comply with all town regulations and orders regarding the applicable roadways under town jurisdiction for all special or seasonal weight limits, routes for designated or alternate roadways, special traffic, speed or road closure regulations.

(Code 1982, § 11.07(5)(ac))

Sec. 34-141. Wind-carried dust and debris from disposal site prohibited.

The dumping or disposal operations shall be conducted in such a way that dust,

dirt, debris or other materials or substances will not be carried by wind across the boundary of the parcel of land being used for the dump or disposal site.

(Code 1982, § 11.07(5)(ad))

Sec. 34-142. Removal of litter and garbage along fencelines and gates of disposal site.

The dumper/disposer shall police, on a daily basis, the fence lines at the dump or disposal site and remove litter, waste, garbage, mud or debris and provide maintenance of fences and gates at the dump or disposal site.

(Code 1982, § 11.07(5)(ae))

Sec. 34-143. Collection and removal of litter, waste and garbage attributable to disposal site.

The dumper/disposer shall, at least weekly and within a one-half mile radius of the dump or disposal site, collect and remove all litter, waste, garbage or debris reasonably attributable to the dumping or disposal operation of the dumper/disposer.

(Code 1982, § 11.07(5)(af))

Sec. 34-144. Hazardous waste prohibited at disposal site.

No hazardous waste, regardless of quantity, shall be accepted, received, stored, treated, disposed or transported to any dump or disposal site within the town.

(Code 1982, § 11.07(5)(ag))

Sec. 34-145. Waste and refuse from other dumps and disposal sites prohibited.

The dumper/disposer shall not accept, receive, store, treat or dispose of any waste, garbage or refuse at the dump or disposal site from any other dump or disposal site.

(Code 1982, § 11.07(5)(ah))

Sec. 34-146. Fly ash and sludge prohibited at disposal site.

The dumper/disposer shall not accept, receive, store, treat or dispose of any fly ash or sludge at the dump or disposal site.

(Code 1982, § 11.07(5)(ai))

Sec. 34-147. List of authorized transporters to dump and disposal site.

The dumper/disposer shall provide to the clerk-treasurer a list of the names, addresses and phone numbers of all authorized transporters to the dump or disposal site. No person shall transport, dispose, store or treat waste, garbage or refuse at the dump or disposal site unless authorized by permit and listed with the clerk-treasurer.

(Code 1982, § 11.07(5)(aj))

Sec. 34-148. Form identifying contents and origin of waste required before use of dump or disposal site.

The dumper/disposer shall require that all persons, corporations, municipalities or counties transporting waste, garbage or refuse to and from the dump or disposal site, shall, prior to storing, treating or disposing of the waste, garbage or refuse in the dump or disposal site, sign a form noting:

- (1) The source of the waste;
- (2) Type of waste;
- (3) Amount of waste;
- (4) Date of disposal at the dump or disposal site;
- (5) Name and address of the transporter;
- (6) Name of the driver; and
- (7) Signature of the driver.

In addition, the person, corporation, municipality or county transporting to the dump or disposal site shall sign on the same form that they understand that they shall not transport to and from, store, treat or dispose, or permit the transportation to and from, storage, treatment or disposal of any hazardous waste, fly ash or sludge in the dump or disposal site and should they transport to and from, store, treat, dispose or permit the transportation to and from, storage, treatment or disposal of any hazardous waste, fly ash or sludge in the dump or disposal site, they subject themselves to possible forfeiture. The town board hereby reserves the right to disallow persons, corporations, municipalities or counties the right to transport, store, treat or dispose at the dump or disposal site should they violate this provisions.

(Code 1982, § 11.07(5)(ak))

Sec. 34-149. Notification of hazardous waste, fly ash or sludge.

The dumper/disposer shall inform the clerk-treasurer orally and in writing immediately of any hazardous waste, fly ash or sludge, or any suspected hazardous waste, fly ash or sludge that has been accepted, received, stored, treated or disposed at the dump or disposal site.

(Code 1982, § 11.07(5)(al))

Sec. 34-150. Acceptance of leachate, residue or waste removed from dump or disposal site prohibited.

The dumper/disposer shall not dispose, store or treat within the town any leachate, residue, solid or hazardous waste which has been removed from the dump or disposal site, nor shall the dumper/disposer accept, receive, store, treat or dispose at the dump or disposal site any leachate, residue, solid or hazardous waste from any other dump or disposal site.

(Code 1982, § 11.07(5)(am))

Sec. 34-151. Notification of temporary or emergency closing of disposal site.

The dumper/disposer shall notify the clerk-treasurer orally and in writing immediately of any temporary or emergency closing of the dump or disposal site by the dumper/disposer or by any government order and the reasons for the closing.

(Code 1982, § 11.07(5)(an))

Sec. 34-152. Notification of permanent closing of disposal site.

The dumper/disposer shall notify the clerk-treasurer in writing at least 120 days prior to the permanent closure of the dump or disposal site and dumper/disposer shall completely comply with the provisions of Wis. Admin. Code ch. NR 180, or its successor as to closure and longterm care. Copies of all closure plans shall be filed with the clerk-treasurer in advance of the commencement of steps to close the dump or disposal site.

(Code 1982, § 11.07(5)(ao))

Sec. 34-153. Notification of change in ownership, possession or operation of disposal site.

The dumper/disposer shall notify the clerk-treasurer in writing prior to the transfer and change of ownership, possession or operation of any dump or disposal site describing the reasons for the transfer or change, the names, addresses and telephone numbers of the prospective parties receiving ownership, possession or operation and the dates of transfer or change. Upon transfer or change of ownership, possession or operation, the current permit shall be void and a new application for permit shall be required prior to continued operation of the dump or disposal site.

(Code 1982, § 11.07(5)(ap))

Sec. 34-154. Groundwater monitoring wells around disposal site; testing.

All dumpers/disposers shall establish groundwater monitoring wells within the dump or disposal site not to be less than six in number. These wells shall be tested on a quarterly basis. The results of these tests shall be filed with the clerk-treasurer within three days after receipt of the results by the dumper/disposer. If these test results do not meet primary and secondary drinking standards, written notice shall be immediately forwarded by the dumper/disposer to all well owners within a two-mile radius of the perimeter of the dump or disposal site informing them of the results and requesting permission to test their wells within 48 hrs. With permission of the owners, the dumper/disposer shall test these wells immediately and file the results with the clerk-treasurer within three days after receipt of the results by the dumper/disposer.

- (1) The dumper/disposer, with permission of the owners, shall test, at its own expense and prior to operation of the dump or disposal site and on a quarterly basis thereafter, all active wells within a one-mile distance of the outer perimeters of the dump or disposal site. Water quality shall be tested by an independent laboratory selected by the town board. Test

materials shall be furnished by the dumper/disposer who shall be responsible for receiving samples from well owners and providing results to well owners and the clerk-treasurer. Those results shall be filed with the clerk-treasurer within three days after receipt of the results by the dumper/disposer and shall be maintained and kept by the clerk-treasurer. The test parameters are field pH, field conductivity, COD, dissolved iron and chloride. If any of these test results do not meet primary and secondary drinking standards, written notice shall be immediately forwarded by the dumper/disposer to all well owners within a two-mile radius of the perimeter of the dump or disposal site informing them of the results and requesting permission to test their wells within 48 hours. With permission of the owners, the dumper/disposer shall test these wells immediately and file the results with the clerk-treasurer within three days after receipt of the results by the dumper/disposer.

- (2) If any well within a two-mile radius of the perimeter of the dump or disposal site shall fail because of contamination, pollution, unfitness for human consumption or recommendation not to be consumed by the state department of natural resources, or has been unapproved by any state agency, it shall be presumed that the failure of the well resulted from the dumping or disposal operation and the dumper/disposer upon notice by the town board shall be responsible within 24 hours to provide to the failed well owner an alternative and adequate source of water for domestic, commercial and agricultural consumption. All dumpers/disposers shall, within 30 days after notice, repair or replace, with permission of owner, the failed well. Moreover, all dumpers/disposers shall assume all of the responsibilities of the town under Wis. Stats. § 292.51, for any damages to any water supply at the dump or disposal site. All dumpers/disposers shall be responsible, if possible, to determine the cause of the failure of the well. If the failure was caused by any other source other than the transportation to and from, construction, operation, maintenance or closure of the dump or disposal site, the dumpers/disposers may seek reimbursement of its costs and expenses incurred under this section from the individual well owner.

(Code 1982, § 11.07(5)(aq))

Sec. 34-155. Air quality stations; measurement of air quality; objectionable odor control and abatement.

All dumpers/disposers shall establish, prior to operation of the dump or disposal site, an air quality station, designed to measure the ambient air quality at the site to ensure conformity with Wis. Stats. § 285.21, and the regulations promulgated by the state department of natural resources. Prior to operation, a test shall be taken of air quality with a copy of the results of the tests filed with the clerk-treasurer within three days after receipt of the results by the dumper/disposer. Thereafter, on an annual basis, air quality monitoring shall be performed until 20 years after closure with the cost of the tests to be paid by the dumper/disposer. The results of the tests shall be filed with the clerk-treasurer within three days after receipt of the results by the dumper/disposer.

- (1) All dumper/disposers shall not cause, suffer, allow or permit emissions into the ambient air of any substance or combination of substances in

quantities such that objectionable odor results. Preventative measures satisfactory to the state department of natural resources and the town board shall be taken to abate or control such emissions. An odor shall be deemed objectionable at the dump or disposal site when 50 percent of the individuals residing within a two-mile radius of the perimeter of the dump or disposal site claim the odors to be objectionable through a verified petition to the dumper/disposer and the clerk-treasurer.

- (2) Upon receipt of the verified petition, the dumper/disposer shall immediately remove or dispose of the odorous materials. Upon failure of the dumper/disposer to remove or dispose of all odorous materials within two days after receipt of the petition, the town board may close the dump or disposal site until odors are abated or controlled. The town board shall solely determine when and if odors have been abated or controlled.

(Code 1982, § 11.07(5)(ar))

Sec. 34-156. Installation and maintenance of devices to detect affects of leachate on groundwater.

Prior to the operation of a dump or disposal site, the dumper/disposer shall install and maintain with permission of the owners, within one mile of the perimeters of the dump or disposal site, leachate monitoring wells, lysimeters, moisture probes, automatic leachate systems with alarms, automatic gas detection systems with alarms or any similar devices requested by the town board to detect the affects of leachate on the groundwater. The dumper/disposer shall pay for the cost for installation and testing, and shall file test results with the clerk-treasurer within three days after receipt of results by the dumper/disposer. Testing shall be conducted on such a basis (i.e., monthly, quarterly, semiannually, annually, etc.) as shall be directed by the town board and shall continue for 20 years after closure of the dump or disposal site. Any changes in the groundwater quality shall immediately be noticed by the dumper/disposer to the clerk-treasurer and the affected owners of real property.

(Code 1982, § 11.07(5)(as))

Sec. 34-157. Reports required of disposal site.

From the construction date until closure of the dump or disposal site, the dumper/disposer shall file with the clerk-treasurer a sworn, typed, monthly and yearly report as a public record on forms provided by the town, due ten days after the end of each month and 30 days after the end of the calendar year, respectively.

- (1) The following information, or copies of the following documents, shall be provided:
 - a. The name of the owner of the dump or disposal site.
 - b. The names, addresses and positions of responsibility of the persons employed by the dumper/disposer at the dump or disposal site and the names, addresses and positions of responsibility of any independent contractor employed at the dump or disposal site.

- c. The names, addresses and telephone numbers of the person responsible for the daily operation, reports and emergency response at the dump or disposal site.
- d. The amount of waste in gross tonnage, type of waste, source of waste disposed at the dump or disposal site, and the names and addresses of the persons transporting waste to and from the dump or disposal site and copies of the forms required under section 34-148.
- e. Copies of all reports and correspondence submitted or to be submitted to the state department of natural resources regarding the dump or disposal site.
- f. Copies of all reports, legal documents, citations, court documents and judgments received by the dumper/disposer regarding the dump or disposal site from the state department of natural resources or any other regulatory, law enforcement or judicial authority of this state or the United States.
- g. Copies of all engineering and consulting reports received by the dumper/disposer from its engineers and consultants regarding the dump or disposal site.
- h. The names, addresses and telephone numbers along with a copy of any written contract with the parties that will receive any leachate, residue or other waste removed from the dump or disposal site.
- i. The amounts of waste in gross tonnage, type of waste and source of waste and any revenue received from recycled or recovered solid waste at the dump or disposal site.

(2) Each report shall be accompanied by the following sworn statement signed by an authorized representative of the dumper/disposer:

That the undersigned is a dumper/disposer or agent of a dumper/disposer of a dump or disposal site located in the Town of Yorkville, Racine County, Wisconsin, which site is commonly known as _____.

That pursuant to the ordinance of the Town of Yorkville, the undersigned, as the dumper/disposer or as the agent of the dumper/disposer is requested to provide certain records, reports, documents and information to the Town of Yorkville.

That the undersigned has provided those records, reports, documents and information to the Town of Yorkville.

That after consultation with county employees, transporters, independent contractors, engineers, consultants, attorneys and accountants, the material provided to the Town of Yorkville is accurate, complete and truthful.

That the undersigned understands these records, reports, documents and information are necessary for the Town of

Yorkville to monitor the dumping or disposal operation. That the undersigned understands that the undersigned is under oath and that the undersigned is subject under Wis. Stats. §§ 943.39 and 946.32, to possible criminal penalties for false swearing and fraudulent writings should these records, reports, documents and information be false, inaccurate or incomplete.

Dated this _____ day of _____, 20_____.

Signed: _____

Title: _____

Subscribed and sworn on this _____ day of _____, 20_____.

County of _____

State of Wisconsin

My Commission: _____

(Code 1982, § 11.07(5)(at))

Sec. 34-158. Injury or damage in connection with disposal site.

Should injury or damage occur in connection with a dump or disposal site within the town, such injury or damage shall be legally presumed to have been proximately caused by the dumper/disposer operating such dump or disposal site.

(Code 1982, § 11.07(5)(au))

Sec. 34-159. Liability for additional insurance expenses.

The dumper/disposer shall be liable to the town for any additional liability insurance expenses made reasonably necessary by the location of his dump or disposal site within the town.

(Code 1982, § 11.07(5)(av))

Sec. 34-160. Environmental impairment policy.

The dumper/disposer shall furnish the town with an environmental impairment policy covering his dump or disposal site within the town.

(Code 1982, § 11.07(5)(aw))

Sec. 34-161. Other conditions and requirements for disposal site.

The town board shall have the authority to impose any other conditions as a

requirement of granting a permit to operate a dump or disposal site within the town, so long as such requirements are consistent with and at least as restrictive as the Natural Resources Code of the Wisconsin Administrative Code (Wis. Admin. Code ch. NR 500 et seq.).

(Code 1982, § 11.07(5)(ax))

Secs. 34-162--34-180. Reserved.

Subdivision IV. Infectious or Hazardous Waste Regulation*

*Cross references: Environment, ch. 22.

Sec. 34-181. Qualifications of provisions regarding infectious waste treatment.

Subject to the following qualifications, the provisions of division 2, subdivision III of this article shall apply to infectious waste treatment facilities. The following sections of division 2, subdivision III of this article shall not be applied to a facility which treats, other than by incineration, infectious wastes for the purpose of destroying pathogens or other infectious matters contained therein, if such treatment is conducted within a building and such wastes are not disposed of at the site:

- (1) Section 34-114. The town board may establish hours for the operation of the site.
- (2) Section 34-116.
- (3) Section 34-117.
- (4) Section 34-118. The dumper/disposer shall enclose within an eight-foot high chainlink fence any areas outside of a building where vehicles containing infectious wastes may be parked.
- (5) Section 34-119.
- (6) Section 34-122. The doors to the building in which the operation is conducted and the gates in any fence at the facility shall be locked and secured when the waste treatment operation is not being conducted.
- (7) Section 34-124.
- (8) Section 34-125.
- (9) Section 34-127.
- (10) Section 34-132. The dumper/disposer shall comply with any recycling requirements imposed by the state department of natural resources.
- (11) Section 34-133.

- (12) Section 34-136. The town board may establish the hours during which vehicles may enter or leave the site to transport wastes to and from the site.
- (13) Section 34-143. The dumper/disposer shall immediately clean up all wastes which may be spilled or otherwise released, whether on or off the site where treated.
- (14) Section 34-145. The dumper/disposer shall not accept any wastes from any landfills, disposal sites, incinerators or like facilities, but may accept infectious wastes from transfer stations, temporary storage facilities or medical facilities which pretreat wastes or, in emergencies, from other similar treatment facilities.
- (15) Section 34-154. The dumper/disposer shall establish and maintain as many monitoring wells as shall be determined by the town board. The water from such wells shall be tested periodically as provided by the town board and test results shall be filed with the clerk-treasurer within three days of receipt. Subject to obtaining permission of the respective owners, the dumper/disposer, at his own cost and expense, shall cause a baseline test to be made of all wells within one mile of the outer perimeter of the treatment site within two months of the approval of the permit. Tests shall be made by an independent laboratory selected by the town board. Test parameters shall be as determined by the town board. Test results shall be furnished to the clerk-treasurer, well owners and dumper/disposer.
- (16) Section 34-155. The provisions of sections 34-155(1) and (2) shall be applicable to such a facility.
- (17) Section 34-156.
- (18) Section 34-157. The dumper/disposer shall maintain all information required under section 34-157 at his offices, permit inspection and copying by the town at all reasonable times and furnish any requested copies to the town by the next business day. The dumper/disposer shall file with the clerk-treasurer the annual report as provided in section 34-157 and copies of all reports filed by him with the state department of natural resources.

(Code 1982, § 11.07(5a))

Secs. 34-182--34-200. Reserved.

Subdivision V. Sludge Regulations

Sec. 34-201. Special sludge permit required.

Notwithstanding any provision contained in this division, sludge may be transported within the town for the purpose of dumping or disposal, or may be dumped or disposed on lands within the town upon the issuance of a special sludge permit under this division by the town board.

(Code 1982, § 11.07(14))

Sec. 34-202. Sludge regulations.

- (a) No permit shall be granted for the dumping of sludge until after the applicant has obtained a site approval permit from the state department of natural resources pursuant to Wis. Stats. § 283.31.
- (b) No permit shall be granted for the dumping of sludge on any land other than cropland.
- (c) No permit shall be granted for the placing or dumping of sludge if the quantity to be dumped on the land in question shall be greater than one acre/inch for a 12-month period or the needs of the crop growing or to be grown on the land during the 12-month period, whichever is less.
- (d) No permit shall be granted for the dumping of untreated sewage.
- (e) No permit shall be granted for the dumping of sludge in excess of 10,000 gallons per acre over a 24-hour period.
- (f) No permit shall be granted for the dumping of sludge on land where sludge or sewage has been dumped in the six-month period immediately preceding such dumping, however, nothing contained in this division shall prevent a permit from being granted permitting the reapplication of sludge on the land covered by the permit within six months of the initial application of sludge or treated sewage to the land pursuant to such permit provided such reapplication does not exceed the needs of the crop growing or to be grown.
- (g) No permit shall be granted for the dumping of sludge on soil that is not approved by the state department of natural resources and/or the county sanitarian as being a type of soil that will readily assimilate the sludge.
- (h) No permit shall be granted for the dumping of sludge during rainy weather or where the soil to which the sludge is to be applied is waterlogged or frozen.
- (i) No permit for dumping sludge shall be granted where the lands to which it is to be applied are drainageways, undrained or ponded areas.
- (j) No permit for dumping of sludge shall be granted without restricting such dumping by prohibiting any dumping within 250 feet from any building occupied or used by humans and within 50 feet from any roads or highways within the town.
- (k) No sludge shall be transported within the town unless in vehicles so designed as to prevent the dropping of any such materials on the highways or roadways within the town. Any sludge which is dropped on a highway shall be removed within four hours of the time that notice is given to the person holding the permit for transportation or dumping. The town board may not issue a permit for dumping or transportation under this division to any person who has not complied with a removal order set forth in this subdivision.

(Code 1982, § 11.07(14)(a))

Sec. 34-203. Application for special sludge permit.

Application for a special sludge permit to transport or dump sludge within the town, as required in this division, shall be made to the town board. Such application shall

be filed on a form provided by the clerk-treasurer and shall contain the following information:

- (1) Name, address and telephone number of applicant.
- (2) A description of the material to be transported or dumped.
- (3) The source of the material to be transported or dumped.
- (4) The quantity of material to be transported or dumped.
- (5) The description of the roads over which it will be transported and/or the lands on which it will be dumped.
- (6) If the permit is for dumping or placing the material on lands within the town:
 - a. The quantity which has already been placed on such lands in the previous 12-month period and the dates on which the material was previously placed on such lands.
 - b. The manner in which the material will be applied or placed on such lands.
 - c. The names and addresses of the owners of all property lying within 200 feet of the land on which the material is to be dumped or placed.
- (7) A signed statement by the applicant in form satisfactory to the town board wherein applicant agrees that the applicant, its agents and servants, will save harmless, indemnify and defend the town, its officers, agents and servants from any cost and expense incurred through the failure of the applicant, its agents and servants, to transport to and from, and to apply the sludge as required by this division, federal and state law, and regulation during the time of the requested permit and thereafter, and wherein the applicant further agrees to save harmless, indemnify and defend the town, its officers, agents and servants, from any claim for damages due to the negligence and/or an intentional act of the applicant, its agents and servants during the period of the requested permit or thereafter.

(Code 1982, § 11.07(14)(b))

Sec. 34-204. Notice and public hearing.

Before issuing a special sludge permit under this subdivision, the town board shall hold a public hearing. Notice of such public hearing specifying the time, place and matters to come before the town board shall be given as a class 1 notice as referred to in Wis. Stats. ch. 985. In addition, if the hearing is in connection with an application for a period for the dumping of sludge on land within the town, the clerk-treasurer shall notify, in writing, all property owners within 200 feet of the land in question of the hearing at least five days prior to such hearing.

(Code 1982, § 11.07(14)(c))

Sec. 34-205. Special sludge permit fee.

The application fee for a special sludge permit shall be \$150.00 and shall be paid upon filing the application with the clerk-treasurer.

(Code 1982, § 11.07(14)(d))

Sec. 34-206. Bond.

- (a) The town board shall have the right to require the applicant to furnish the town with a bond and/or an insurance policy in such amounts as shall be determined by the town board, to ensure the following:
- (1) The applicant, its agents and servants, will comply with all of the terms, conditions, requirements and specifications contained in this division.
 - (2) The applicant, its agents and servants, will faithfully transport and/or dump the sludge for which the special sludge permit is issued in accordance with the provisions of this division.
 - (3) The applicant, its agents and servants, will save harmless, indemnify and defend the town for any costs or expenses incurred through the failure of the applicant, its agents and servants to transport and/or dump the sludge as required by this division, federal and state law and regulation, including any cost or expense the town may be put to for correcting any condition or violation of this division whenever the town board determines it is necessary for the town to correct any condition or violation of this division or from any damages due to the negligence and/or intentional act of the applicant, its agents or servants.
 - (4) The applicant, its agents and servants, will pay any and all penalties imposed as a result of the failure of the applicant, its agents and servants, to comply with all the terms, conditions, requirements and specifications contained in this division.
- (b) Before acceptance, all bonds and/or insurance policies shall be approved by the town board. If a corporate bond or insurance policy is issued, it shall be executed by a company authorized to transact business in the state as a surety. If a cash bond is offered, it shall be deposited with the clerk-treasurer who shall give official receipt therefor, reciting that such cash has been deposited in compliance with and subject to the provisions of this division. Failure to maintain an approved bond and/or insurance policy during the period of the special sludge permit shall automatically invalidate the permit and the town board shall have the right to revoke the permit and/or to obtain a court order terminating the transportation and/or dumping operation within the town.

(Code 1982, § 11.07(14)(e))

Sec. 34-207. Revocation.

Any permit issued under the provisions of this subdivision may be revoked by the town board for any violation of law or ordinance pertaining to the applicant or the transportation to and/or dumping of sludge within the town. The permit shall be deemed revoked by the town board upon the mailing of written notice of revocation to the

applicant. The town board, if necessary, may, at any time, seek a court order terminating the transportation and/or dumping of sludge within the town for any violation of this division or due to the establishment of a public nuisance.

(Code 1982, § 11.07(14)(f))

Secs. 34-208--34-239. Reserved.

ARTICLE III. RECYCLING

Sec. 34-240. Purpose.

The purpose of this article is to promote recycling, composting and resource recovery through the establishment and administration of an effective recycling program, as provided in Wis. Stats. § 287.11 and Wis. Admin. Code ch. NR 544.

(Code 1982, § 11.09(1))

Sec. 34-241. Abrogation and greater restrictions.

It is not intended by this article 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 article imposes greater restrictions, the provisions of this article shall apply.

(Code 1982, § 11.09(2))

Sec. 34-242. Interpretation.

In their interpretation and application, the provisions of this article shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the state statute. Where any terms or requirements of this article may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this article is required by state statute or by a standard in Wis. Admin. Code ch. NR 544, and where the section provision is unclear, the provision shall be interpreted in light of the state statute and Wis. Admin. Code ch. NR 544 standards in effect on the date of the adoption of the ordinance from which this article is derived or in effect on the date of the most recent text amendment to this article.

(Code 1982, § 11.09(3))

Sec. 34-243. Severability.

Should any portion of this article be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this article shall not be affected.

(Code 1982, § 11.09(4))

Sec. 34-244. Applicability.

The requirements of this article apply to all persons within the town.
(Code 1982, § 11.09(5))

Sec. 34-245. Administration.

The provisions of this article shall be administered by the town board.
(Code 1982, § 11.09(6))

Sec. 34-246. Definitions.

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

Bimetal container means a container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.

Collection site means the site established by the town board from time to time for the collection of solid wastes.

Container board means corrugated paperboard used in the manufacture of shipping containers and related products.

HDPE means high density polyethylene plastic containers marked by the SPI code No. 2.

LDPE means low density polyethylene plastic containers marked by the SPI code No. 4.

Magazines means magazines and other materials printed on similar paper.

Major appliance means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, furnace, boiler, dehumidifier, water heater or stove.

Mixed or other plastic resin types means plastic containers marked by the SPI code No. 7

Multifamily dwelling means a property containing five or more residential units, including those which are occupied seasonally.

Newspaper means a newspaper and other materials printed on newsprint.

Nonresidential facilities and properties means commercial, retail, industrial, institutional and governmental facilities and properties. The term "nonresidential facilities and properties" does not include multiple-family dwellings.

Office paper means high grade printing and writing papers from offices in nonresidential facilities and properties. Printed white ledger and computer printout are examples of office paper generally accepted as high grade. The term "office paper" does not include industrial process waste.

Person means any individual, corporation, partnership, association, local governmental unit as defined in Wis. Stats. § 66.0131(1)(a), state agency or authority or federal agency.

PETE means polyethylene terephthalate plastic containers marked by the SPI code No. 1.

Postconsumer waste means solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in Wis. Stats. § 291.01(7), waste from construction and demolition of structures, scrap automobiles or high-volume industrial waste, as defined in Wis. Stats. § 289.01(17).

PP means polyethylene plastic containers marked by the SPI code No. 5.

PS means polyethylene plastic containers marked by the SPI code No. 6.

PVC means polyvinyl chloride plastic containers marked by the SPI code No. 3.

Recyclable materials means lead acid batteries; major appliances; waste oil; yard waste; aluminum containers; corrugated paper or other container board; foam polystyrene packaging; glass containers; magazines; newspapers; office paper; plastic containers, including those made of PETE, HDPE, PVC, LDPE, PP, PS, and mixed or other plastic resin types; steel containers; waste tires; and bimetal containers.

Solid waste has the meaning specified in Wis. Stats. § 289.01(33).

Solid waste facility means has the meaning specified in Wis. Stats. § 289.01(35).

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. The term "treatment" includes incineration.

Waste tire means a tire that is no longer suitable for its original purpose because of wear, damage or defect.

Yard waste means leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than six inches in diameter. The term "yard waste" does not include stumps, roots or shrubs with intact root balls.

(Code 1982, § 11.09(8))

Cross references: Definitions generally, § 1-2.

Sec. 34-247. Separation of recyclable materials.

Except as otherwise provided in this article, occupants of single-family and two-unit to four-unit residences, multifamily dwellings and nonresidential facilities and properties shall separate the following materials from postconsumer waste:

- (1) Lead-acid batteries.
- (2) Major appliances.
- (3) Waste oil.
- (4) Yard waste.
- (5) Aluminum containers.

- (6) Bimetal containers.
- (7) Corrugated paper or other container board.
- (8) Foam polystyrene packaging.
- (9) Glass containers.
- (10) Magazines or other materials printed on similar paper.
- (11) Newspaper or other materials printed on newsprint.
- (12) Office paper.
- (13) Plastic containers made of PETE, HDPE, PVC, LDPE, PP, PS and mixed or other plastic resin types.
- (14) Steel containers.
- (15) Waste tires.

(Code 1982, § 11.09(9))

Sec. 34-248. Separation requirements exempted.

The separation requirements of section 34-247 do not apply to the following:

- (1) Occupants of single-family and two-unit to four-unit residences, multifamily dwellings and nonresidential facilities and properties that send their postconsumer waste to a processing facility licensed by the state department of natural resources that recovers the materials specified in section 34-247 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 30 percent of the heat input to the facility is derived from the solid waste burned as supplemental fuel.
- (3) A recyclable material specified in section 34-247 for which a variance of exemption has been granted by the state department of natural resources under Wis. Stats. § 287.07 or Wis. Stats. § 287.11(2m) or Wis. Admin. Code § NR 544.14.

(Code 1982, § 11.09(10))

Sec. 34-249. Care of separated recyclable materials.

To the greatest extent practicable, the recyclable materials separated in accordance with section 34-247 shall be clean and kept free of contaminants such as food or product residue, oil, grease or other nonrecyclable 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.

(Code 1982, § 11.09(11))

Sec. 34-250. Management of lead-acid batteries, major appliances, waste oil and yard waste.

Occupants of single family and two-unit to four-unit residences, multiple-family dwellings and nonresidential facilities and properties shall manage lead-acid batteries, major appliances, waste oil and yard waste as follows:

- (1) On or after January 1, 1991, no person shall dispose of lead-acid batteries or major appliances in a solid waste disposal facility, except that, after January 1, 1995, a person may dispose of a microwave oven in a solid waste disposal facility if the capacitor has been removed and disposed of in accordance with Wis. Stats. § 299.45(7).
- (2) Major appliances shall be deposited at the collection site in a container marked for such materials.
- (3) Waste oil shall be deposited at the county highway building at Ives Grove in a waste oil container located on County Trunk Highway "C".
- (4) Yard waste shall be composted at the resident's own site or hauled to and deposited at a commercial compost site at the owner's expense. Yard waste shall not be deposited at the collection site.

(Code 1982, § 11.09(12))

Sec. 34-251. Preparation and collection of recyclable materials.

Except as otherwise directed by the town board or attendant at the collection site, occupants of single-family and two-unit to four-unit residences shall do the following for the preparation and collection of the separated materials specified in sections 34-247(5) through (15):

- (1) Aluminum containers shall be deposited at the collection site in a container marked for such materials.
- (2) Bimetal containers shall be washed, have paper labels removed and shall be deposited at the collection site in a container marked "tin cans."
- (3) Corrugated paper or other container board shall be broken down, if possible, and deposited at the collection site in a container marked "paper."
- (4) Foam polystyrene packaging shall be deposited at the collection site in the solid waste compactor until January 1, 1996, or as otherwise directed by the attendant.
- (5) Glass containers shall be washed, have caps and covers removed and deposited at the collection site in appropriate containers marked for such materials. There shall be separate containers for clear, brown and green glass.
- (6) Magazines and other materials printed on similar paper along with corrugated and other paper boxes, magazines, books, and office paper shall be deposited at the collection site in a container marked "paper."
- (7) Newspapers or other materials printed on newsprint shall be deposited at

- the collection site in a container marked "newspaper and newsprint."
- (8) Office paper shall be deposited at the collection site in a container marked "paper". Such paper shall be emptied into the container, which shall be covered. No plastic bags shall be deposited in the container.
 - (9) Plastic containers shall be prepared and collected as follows:
 - a. Plastic containers made of PETE, including No. 1, shall be deposited at the collection site in a container marked for No. 1 (soda bottles and other items labeled No. 1).
 - b. Plastic containers made of HDPE, including No. 2, shall be washed, have caps, covers and paper labels removed, and deposited at the collection site in a container box marked for No. 2 (milk jugs, etc.).
 - c. Plastic containers made of PVC, including Nos. 3, 4, 5, 6 and 7, shall be deposited at the collection site in the solid waste compactor until January 1, 1996, or as otherwise designated by the attendant.
 - d. Plastic containers made of LDPE shall be deposited at the collection site in the solid waste compactor until January 1, 1996, or as otherwise designated by attendant.
 - e. Plastic containers made of PP shall be deposited at the collection site in the solid waste compactor until January 1, 1996, or as otherwise directed by the attendant.
 - f. Plastic containers made of PS shall be deposited at the collection site in the solid waste compactor until January 1, 1996, or as otherwise directed by the attendant.
 - (10) Steel containers shall be separated, washed, have labels removed and deposited at the collection site in a container marked "tin cans."
 - (11) Waste tires shall be deposited at the collection site in a container marked "tires." The town board shall limit the number of tires which may be disposed of each week and shall establish any charges for such disposal.

(Code 1982, § 11.09(13))

Sec. 34-252. Responsibilities of owners or designated agents for multifamily dwellings.

- (a) Owners or designated agents of multifamily dwellings shall do all of the following for recycling the materials specified in section 34-247(5) through (15):
 - (1) Provide adequate, separate containers for recyclable materials.
 - (2) Notify tenants in writing at the time of renting or leasing the dwelling and at least semiannually thereafter about the town's recycling program.
 - (3) Provide for the collection of the materials separated from the solid waste by the tenants and the delivery of the materials to a recycling facility.

- (4) Notify tenants of reasons to reduce and recycle solid waste, which materials are collected, how to prepare the 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.
- (b) The requirements specified in subsection (a) of this section do not apply to the owners or designated agents of multifamily dwellings if the postconsumer waste generated within the dwelling is treated at a processing facility licensed by the state department of natural resources that recovers for recycling the materials specified in section 34-247(5) through (15) from solid waste in as pure a form as is technically feasible.

(Code 1982, § 11.09(14))

Sec. 34-253. Responsibilities of owners or designated agents of nonresidential facilities and properties.

- (a) Owners or designated agents of nonresidential facilities and properties shall do all of the following for recycling the materials specified in section 34-247(5) through (15):
 - (1) Provide adequate, separate containers for the recyclable materials.
 - (2) Notify in writing, at least semiannually, all users, tenants and occupants of the properties about the town's recycling program.
 - (3) 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.
 - (4) 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.
- (b) The requirements specified in subsection (a) of this section do not apply to the owners or designated agents of nonresidential facilities and properties if the post consumer waste generated within the facility or property is treated at a processing facility licensed by the state department of natural resources that recovers for recycling the materials specified in section 34-247(5) through (15) from solid waste in as pure a form as is technically feasible.

(Code 1982, § 11.09(15))

Sec. 34-254. Prohibitions on disposal of recyclable materials.

No person may dispose of in a solid waste disposal facility or burn in a solid waste treatment facility any of the materials specified in section 34-247(5) through (15), which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.

(Code 1982, § 11.09(16))

Sec. 34-255. Enforcement.

Any authorized officer, employee or representative of the town may inspect recyclable materials separated for recycling postconsumer waste intended for disposal, collection sites and facilities, collection vehicles, collection areas of multifamily dwellings and nonresidential facilities and properties, solid waste disposal facilities and solid waste treatment facilities and any records relating to recycling activities, for the purpose of ascertaining compliance with the provisions of this article. No person may refuse access to any authorized officer, employee or authorized representative of the town who requests access for purposes of inspection and who presents appropriate credentials. No person may obstruct, hamper or interfere with such an inspection.

(Code 1982, § 11.09(17))

Secs. 34-256--34-280. Reserved.

ARTICLE IV. SOLID WASTE AND RECYCLING HAULERS

Sec. 34-281. Registration of haulers; fee.

Any person or entity wishing to haul, for profit, recyclable material, or garbage, refuse, or other solid waste, must register annually with the town and pay the applicable registration fee, as may be set periodically by the town board. Any person or entity hauling such material without a valid registration is subject to the penalty set forth in section 34-1.

(Ord. of 4-22-2002, § 1(11.09(18)(a)))

Sec. 34-282. Haulers of solid waste to also pick up recyclable materials.

Any person or entity who hauls, for profit, garbage, refuse, or other solid waste must also provide curbside pickup of recyclable materials for its customers within the town. This pickup of recyclables shall occur at regularly scheduled and interspaced intervals, and in no event less than twice monthly.

(Ord. of 4-22-2002, § 1(11.09(18)(b)))

Sec. 34-283. Report of recyclable material collections.

Any registrant under this section shall file a report with the town no later than February 1 of each year. This report shall indicate the classifications (single-family, two-family, or multifamily residential, commercial, or industrial) and number of the registrant's customers in the town, the tonnage of recyclable materials collected within the town, broken down using the types of recyclable material set forth in section 34-247, and the final disposal site for all such materials collected within the town. Failure to timely file this report will result in revocation of the party's registration.

(Ord. of 4-22-2002, § 1(11.09(18)(c)))