

TITLE 8

Health and Sanitation

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Title 8 – Chapter 1

Health and Sanitation

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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 Ch. 823, Wis. Stats., which is adopted by reference and made a part of this Section.

State Law Reference: Ch. 823, 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 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) 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) 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 §66.96 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.
- (c) As provided for in §66.96(2), Wis. Stats., the Town shall require that all noxious weeds shall be destroyed prior to the time in which such plants would mature to the bloom or flower state. The growth of noxious weeds in excess of twelve (12) inches in height from the ground surface shall be prohibited within the Town. Noxious weeds shall include any weed, grass, or similar plant growth which, if allowed to pollinate, would cause or produce hay fever in human beings or would cause a skin rash through contact with the skin. Noxious weeds, as defined in this Section and in Section 8-2-2, shall include but not be limited to the following:

- *Cirsium Arvense* (Canada Thistle)
- *Ambrosia artemisiifolia* (Common Ragweed)
- *Ambrosia trifida* (Great Ragweed)
- *Euphorbia esula* (Leafy Spurge)
- *Convolvulus Arvensis* (Creeping Jenny) (Field Bind Weed)
- *Tragopogon dubius* (Goat's Beard)
- *Rhus radicans* (Poison Ivy)
- *Cirsium vulgaries* (Bull Thistle)
- *Pastinaca sativa* (Wild Parsnip)
- *Arctium minus* (Burdock)
- *Xanthium strumarium* (Cocklebur)
- *Amaranthus retroflexus* (Pigweed)
- *Chenopodium album* (Common Lambsquarter)
- *Rumex Crispus* (Curled Dock)
- *Cannabis sativa* (Hemp)
- *Plantago lanceolata* (English Plantain)

Noxious grasses, as defined in this Section and in Section 8-2-2, shall include but not be limited to the following:

- *Agrostia alba* (Redtop)
- *Sorghum halepense* (Johnson)

- Setaria (Foxtail)

State Law Reference: §66.96, Wis. Stats.

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 lawn, grasses and noxious weeds being allowed to grow on vacant lands to excessive length in the Town of Oshkosh.
- (b) **Public Nuisance Declared.** The Town Board finds that lawns, grasses and noxious weeds on vacant lots or parcels of land not used for agricultural purposes within the Town of Oshkosh 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 lawn, grass or weed on a lot or other non-agricultural 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. In platted subdivisions or certified surveys, the provisions of this Section shall be complied with once fifty percent (50%) of the lots have been sold.
- (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/her 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 and Section 8-2-1.
 - (2) The notice 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.
- (f) **Due Process Hearing.** If the owner believes that his/her grasses or weeds are not a nuisance, he 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 Fifty Dollar (\$50.00) bond. If a decision is rendered in the property owner's favor, the Fifty Dollars (\$50.00) 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 Board or its designated authority. 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 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) **Town's 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. 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 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 §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.
 - (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.
 - (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 Oshkosh 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.

Title 8 – 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 Oshkosh for actual, reasonable and necessary expenses incurred by the Town of Oshkosh for any emergency action taken under, and consistent with, §166.22(3), Wis. Stats., whether such action be taken by the Town of Oshkosh or another party on its behalf or direction.
 - (2) Reimbursement as provided under Subsection (d)(1), above, will be accomplished as provided by §166.22(5), Wis. Stats., by the Winnebago County Board of Supervisors, or by local emergency government officials.
 - (3) Terms not defined above shall have the meaning referred to in §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 drainage way, lake or stream within the jurisdiction of the Town of Oshkosh.

Title 8 – Chapter 3

Recycling

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8-3-17	Miscellaneous Requirements
8-3-18	Reservation of Rights
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Sec. 8-3-1 Findings and Declaration of Purpose.

The Town Board of the Town of Oshkosh 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 §159.11, Wis. Stats., and Ch. NR 544, Wis. Adm. Code, by the Town of Oshkosh 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 §159.09(3)(b) and 60.10, Wis. Stats., 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 Applicability.

The requirements of this Chapter apply to all persons within the boundaries of the Town of Oshkosh.

Sec. 8-3-6 Administration.

The provisions of this Chapter shall be administered by the Town Board of the Town of Oshkosh.

Sec. 8-3-7 Definitions.

- (a) For the purpose of this Chapter the following words and phrases shall have the meanings ascribed to them in this Section:
- (1) **Bi-Metal Container.** A container for carbonated or malt beverages that are made primarily of a combination of steel and aluminum.
 - (2) **Container.** A receptacle designed for the purpose of curbside collection of recyclable materials. Acceptable containers are provided to each residential unit by the Town.
 - (3) **Container Board.** Corrugated paperboard used in the manufacturing of shipping containers and related products.
 - (4) **Container Glass.** Shall include container glass only. Glass does not include ceramic cups, dishes, ovenware, plate, glass, safety and window glass, heat resistant glass such as Pyrex, lead based glass such as crystal, TV tubes and light bulbs.

- (5) **Contractor.** The person, corporation or partnership performing recyclable materials collection and processing under this Chapter.
- (6) **Garbage.** Discarded materials resulting from the handling, processing, preparation, storage, cooking, and consumption of food, and discarded animal feces.
- (7) **Hazardous Substance.** Any substance or combination of substances which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which may pose a substantial present or potential hazard to human health or the environment. This term includes, but is not limited to, pesticides and substances, which are toxic, corrosive, flammable, irritants, strong sensitizers or explosives as determined by the Department of Natural Resources of the State of Wisconsin.
- (8) **HDPE.** High-density polyethylene plastic containers marked by the SPI Code No. 2.
- (9) **Lead Acid Battery.** A battery containing lead acid used to store electric energy for use in machinery or vehicles that require energy storage capability utilizing such batteries.
- (10) **LDPE.** Low-density polyethylene plastic containers marked b the SPI Code No. 4.
- (11) **Magazines.** Magazines and other materials printed similar paper.
- (12) **Major Appliance.** A residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven (with condenser removed), oven, refrigerator, stove, furnace, boiler, dehumidifier, water heater, or trash compactor.
- (13) **Medical Waste.** Infectious waste and those containers, packages, and materials that contain infectious waste or that are from a treatment area and are mixed with infectious waste.
- (14) **Mixed or Other Plastic Resin Types.** Plastic containers marked by the SPI Code No. 7.
- (15) **Multiple Family Dwelling.** A property containing five (5) or more residential units, including those, which are occupied seasonally.
- (16) **Newspapers.** Shall include newspapers and other materials printed on newsprint. Does not include catalogues, magazines, cardboard, or other paper products.
- (17) **Non-Residential Facilities and Properties.** Commercial, retail, industrial, institutional and governmental facilities and properties. This term does not include multiple family dwellings.
- (18) **Office Paper.** High grade printing and writing papers from offices in non-residential facilities and properties. Printed white ledger and computer printout are examples of office paper generally accepted as high grade. This term does not include process waste.
- (19) **Person.** Includes any individual, corporation, partnership, association, local governmental unit, as defined in §66.229(1)(a), Wis. Stats., state agency or authority, or federal agency.

- (20) **PETE.** Polyethylene terephthalate plastic containers marked by SPI Code No. 1
- (21) **PP.** Polypropylene plastic containers marked by the SPI Code No. 5.
- (22) **PS.** Polystyrene plastic containers marked by the SPI Code No. 6.
- (23) **PVC.** Polyvinyl chloride plastic containers marked by the SPI Code No. 3.
- (24) **Postconsumer Waste.** Solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in §144.61(5), Wis. Stats., waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste, as defined in §144.44(7)(a)1., Wis. Stats.
- (25) **Producer.** The person whose ultimate use of a product results in solid waste being generated, whether recyclable or not.
- (26) **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; newspapers; office paper; plastic container, including those made from PETE, HDPE, PVC, LDPE, PP, PS, and mixed or other plastic resin types; steel containers; waste tires; and bi-metal containers.
- (27) **Refuse.** All matter produced from industrial or community life, subject to decomposition, not defined as sewage or wastewater. This term does not include appliances, stones, concrete, dirt, plaster, tires, batteries, anti-freeze, automotive engine waste oil, yard waste, or building and demolition materials.
- (28) **Residential Unit.** A space which constitutes a separate household occupied by a person or group of persons. Each residential space on a farm or other property containing more than one (1) such space shall be considered a residential unit. Properties containing more than four (4) residential units are considered commercial and are not included. A residential unit shall be considered occupied when domestic light and power services are supplied thereto.
- (29) **Solid Refuse.** Garbage, refuse, recyclable materials, and all other discarded or salvageable solid materials, commercial and agricultural operations, and from domestic use and public service activities.
- (30) **Solid Waste.** Has the meaning specified in §144.01(15), Wis. Stats.
- (31) **Solid Waste Facility.** Has the meaning specified in §144.43(5), Wis. Stats.
- (32) **Solid Waste Treatment.** Any method, technique or process which is designed to change the physical, chemical or biological character or composition of solid waste. "Treatment" includes incineration.
- (33) **Waste Oil.** Used or dirty oil drained from internal combustion engines in machinery or vehicles.
- (34) **Waste Tire.** A tire that is no longer suitable for its original purpose because of wear, damage or defect.
- (35) **Yard Waste.** Leaves, grass clippings, yard and garden debris, and brush, including clean woody vegetative material no greater than three (3) inches in diameter. This term does not include yard and garden debris in brush in

excess of three (3) inches in diameter, stumps, roots or shrubs with intact root balls.

Sec. 8-3-8 Separation of Recyclable Materials.

- (a) Occupants of single family and two (2) to four (4) unit residences, multiple family dwellings and non-residential facilities and properties shall separate the following materials from post-consumer waste:
- (1) Lead acid batteries.
 - (2) Major appliances.
 - (3) Waste oil.
 - (4) Yard waste.
 - (5) Aluminum containers.
 - (6) Bi-metal 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) Newspapers or other materials printed on newsprint.
 - (12) Office paper.
 - (13) Plastic containers made of PETE (#1), HDPE (#2), PVC (#3), LDPE (#4), PP (#5), PS (#6), and mixed or other plastic resin types (#7).
 - (14) Steel containers.
 - (15) Waste tires.
- (b) The Town of Oshkosh reserves the right to designate additional solid waste materials as recyclable, or currently collected materials as no longer recyclable in accordance with state law and to either add or delete them from any collection services provided by the Town of Oshkosh or its contractors. The Town of Oshkosh shall provide written notice to service recipients of this declaration.

Sec. 8-3-9 Separation Requirements Exempted.

The separation requirements of Section 8-3-8 do not apply to the following:

- (a) Occupants of single family and two (2) to four (4) unit residences, multiple-family dwellings and non-residential facilities and properties that send their post-consumer waste to a processing facility licensed by the Wisconsin Department of Natural Resources that recovers the materials specified in Section 8-3-8 from solid waste in as pure a form as is technically feasible.
- (b) 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 the solid waste burned as supplemental fuel.
- (c) A recyclable material specified in Section 8-3-8 for which a variance has been granted by the Department of Natural Resources under §159.07(7)(d) or 159.11(2m), Wis. Stats., or NR 544.14, Wisconsin Administrative Code.

Sec. 8-3-10 Care of Recyclable Materials.

To the greatest extent practicable, the recyclable materials separated in accordance with Section 8-3-8 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. 8-3-11 Management of Lead Acid Batteries, Major Appliances, Waste Oil and Yard Waste.

Certain special items are required to be recycled in accordance with state law. These items include lead acid batteries, major appliances, waste oil, and waste tires. It is the responsibility of the producer of such waste to properly dispose of these items at the producer's cost or face penalties imposed by Wisconsin state law, which may include fines and/or imprisonment. These items may be deposited for recycling as follows:

- (a) **Lead Acid Batteries** may be deposited at the Winnebago County Landfill or turned in to the retailer when purchasing a new battery.
- (b) **Appliances** may be deposited at the Winnebago County Landfill or turned in to the retailer when purchasing new appliances.
- (c) **Waste Oil** may be deposited at the Winnebago County Landfill.
- (d) **Waste Tires** may be deposited at the Winnebago County Landfill or turned in to the retailer when purchasing new tires.
- (e) **Yard Waste** may be deposited at the Winnebago County Landfill or composted. Tree debris may be brought to the Town Hall for chipping on Saturday mornings in accordance with the hours as posted at the Town Hall.

Sec. 8-3-12 Preparation and Collection of Recyclable Materials.

- (a) Except as otherwise directed by Winnebago County or its Solid Waste Management Board, occupants of Single Family and two (2) to four (4) unit residences shall do the following for the preparation and collection of the separated materials specified in Section 8-3-8(a):
 - (1) Aluminum containers shall be cleaned of all product residue and commingled in transparent thirteen to thirty (13-30) gallon plastic bags with other recyclable items and placed at curbside for collection.
 - (2) Bi-metal containers shall be cleaned of all product residue and commingled in transparent thirteen to thirty (13-30) gallon plastic bags with other recyclable items and placed at curbside for collection. All labels shall first be removed.
 - (3) Corrugated paper and other container boards shall be crushed and tied in bundles not to exceed four feet by four feet 4' x 4') in size or diameter or

- fifty (50) pounds in weight and placed at curbside for collection. All staples, tape and other debris must be removed from the items.
- (4) Glass containers shall be cleaned of all product residue and commingled in thirteen to thirty (13-30) gallon transparent plastic bags with other recyclable items and placed at curbside for collection. All labels, caps and lids must be removed and discarded along with the garbage.
 - (5) Magazines or other materials printed on similar paper shall be kept separate from newspapers and other solid waste, and tied in bundles not to exceed fifty (50) pounds, or placed in brown paper bags and placed at curbside for collection.
 - (6) Newspaper or other materials printed on newsprint shall be kept separate from magazines and other solid waste and tied in bundles not to exceed fifty (50) pounds, or placed in brown paper bags and placed at curbside for collection.
 - (7) Plastic containers shall be prepared and collected as follows:
 - (a) Plastic containers made of PETE, HDPE, PVC, LDPE, PP, PS and other plastic containers made of mixed or other plastic resin types shall be cleaned of all product residue and placed in thirteen to thirty (13-30) gallon transparent plastic bags and commingled with other recyclable items and placed at curbside for collection.
 - (b) Steel and bi-metal containers shall be cleaned of all product residue and placed in thirteen to thirty (13-30) gallon transparent plastic bags commingled with other recyclable items and placed at curbside for collection.
 - (8) Office paper shall be separated from other recyclables and placed in thirteen to thirty (13-30) gallon transparent plastic bags and placed at curbside for collection.
 - (9) Do not commingle office paper with other recyclable items.
 - (10) Foam polystyrene packaging shall be cleaned of all product residue and placed in thirteen to thirty (13-30) gallon transparent plastic bags commingled with other recyclable items and placed at curbside for collection.

**Sec. 8-3-13 Responsibilities of Owners or Designated Agents
of Multiple-Family Dwellings.**

- (a) Owners or designated agents of multiple-family dwellings shall do all of the following to recycle the materials specified in Section 8-3-8(a):
 - (1) Provide adequate, separate containers for the recyclable materials.
 - (2) Notify tenants in writing at the time of renting or leasing the dwelling and at least semi-annually thereafter about the established 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) do not apply to the owners or designated agents of multiple-family dwellings if the post-consumer waste generated within the dwelling is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in Section 8-3-8(a) from solid waste in as pure a form as is technically feasible.

Sec. 8-3-14 Responsibilities of Owners or Designated Agents of Non-Residential Facilities and Properties.

- (a) Owners or designated agents of non-residential facilities and properties shall do all of the following to recycle the materials specified in Sections 8-3-8(a):
 - (1) Provide adequate, separate containers for the recyclable materials.
 - (2) Notify in writing, at least semi-annually, all users, tenants and occupants of the properties about the established 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) 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 specified in Section 8-3-8(a) from solid waste in as pure a form as is technically feasible.

Sec. 8-3-15 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 Sections 8-3-8(a) which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.

Sec. 8-3-16 Hauling Contractors and Processors.

- (a) **Hauler Licensing.** No person or corporation shall engage in the business of hauling recyclables or solid waste within the Town of Oshkosh without being licensed by the DNR under NR 502.06, Wis. Adm. Code, and without annually being licensed by the Town of Oshkosh.

- (b) **Processing Facilities.** Any contractor operating in the Town of Oshkosh shall not transport for processing any recyclables to a processing facility unless that facility has been approved by the Town of Oshkosh, and by January 1, 1995, the facility has been self-certified with the Wisconsin Department of Natural Resources under NR 544.16, Wis. Adm. Code.

Sec. 8-3-17 Miscellaneous Requirements.

- (a) **Antiscavenging or Unlawful Removal of Recyclables.** It shall be unlawful for any person, unless under contract with or licensed by the Town of Oshkosh, to collect or remove any recyclable material that has been deposited or placed at the curb or in a container adjacent to a home or nonresidential building for the purpose of collection for recycling.
- (b) **No Dumping.** It shall be unlawful for any person to dispose of or dump garbage and/or recyclables on any road or other public place within the Town of Oshkosh or in any receptacles or private property within the owner's consent.
- (c) **Nondisposable Materials.** It shall be unlawful for any person to place for disposal any of the following wastes: hazardous waste, household hazardous waste, toxic waste, paints, varnish, stains, pesticides, agricultural and non-agricultural pesticides, medical waste, asbestos, sludge, pollution control waste, ash septage, dead animals, or treated wood products. Residents are encouraged to store hazardous products, agricultural chemicals, and chemical wastes for proper disposal in an area Clean Sweep Program.
- (d) **Recyclables or Garbage From Outside of Municipality.** It shall be unlawful to bring refuse for disposal or recyclables from outside the corporate limits into the Town of Oshkosh unless authorized by agreement with the Town.
- (e) **Burning or Burying.** It shall be unlawful to burn or bury solid waste or recyclable materials other than yard waste by residential and non-residential sectors and at construction sites. Open burning shall be permitted only in accordance with the applicable burning ordinance as set forth by the Town.
- (f) **Special Items.** Materials such as couches and bulky items and other items not otherwise provided for in this Chapter shall be disposed of by contacting a state licensed hauler or by personal delivery to the Winnebago County Landfill.
- (g) **Preparation for Collection.** All solid refuse must be placed at the curb or alley line for pickup no earlier than 4:00 p.m. of the day preceding a regularly scheduled collection or a previously announced date for pickup of recyclable materials. All such container must be set out by 7:00 a.m. on the day of scheduled pickup. Waste containers shall be removed from such curb or alley line no later than twelve (12) hours after collection.
- (h) **Curbside Collection.**
 - (1) The Town shall cause the curbside collection of all recyclable waste, which are prepared, separated and deposited in containers or receptacles for curbside collection by the residents and/or occupants or residences in the Town.

- (2) The Town shall establish collection routes which will provide for each residence in the Town to receive collection service for its recyclable solid wastes at least once every two (2) weeks.
 - (3) All containers or receptacles used by residents and/or occupants shall be leak proof and securely covered when placed for curbside collection.
 - (5) Containers and receptacles with recyclable solid wastes shall be placed near or at the curbside, street, highway or road in front of residences not earlier than 6:00 p.m. on the day preceding the day scheduled by the Town for collection and removal from that address. They shall be removed and stored at the residence not later than 8:00 p.m. on the day of collection and removal.
- (i) **Special Charges.** Irrespective of use of curbside collection by any residence, the costs of collection and removal of recyclable solid wastes from residences in the Town may be charged against all occupied residences in the Town as a special charge pursuant to §74.01, Wis. Stats., added to the taxes otherwise assessed annually against such residences, and shall constitute a lien against such property if not paid when due. Any grants received by the Town for recycling purposes may be applied in whole or in part as a credit against such special charges.

Sec. 8-3-18 Reservation of Rights.

- (a) **Established Fees.** The municipality shall determine the cost for regular and special recycling collection and user fees to cover those costs. Fees shall be assessed as a line item on taxes pursuant to §66.6016, Wis. Stats., in a yearly basis for up to no more than two (2) cubic yards from a single producer on a collection day from residential units and churches.
- (b) **Ownership of Recyclables.** Title to recyclables shall pass to Winnebago County when placed in the Town's contractor's collection vehicle, removed by contractor from the container, or removed by contractor from the residential unit, whichever occurs last.
- (c) **Exemptions.** The Town Board reserves the right to designate additional solid waste materials as recyclable where currently collected materials are no longer recyclable in accordance with state law and to either add or delete them from any collection services provided by the municipality or its contractors. The Town Board in cooperation with its contracted hauler shall establish the times and routes of collection of recyclables. Written notice of the collection schedule shall be provided at least once per year and upon approval of proposed changes shall be given either in writing or by publication.

Sec. 8-3-19 Enforcement.

- (a) Any authorized officer, employee or representative of a Town authorized recycling vendor and/or Town of Oshkosh may inspect recyclable materials separated for recycling, post consumer waste intended for disposal, collection sites and facilities, collection vehicles, collection areas of multiple-family

dwellings and non-residential 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 Chapter. No person may refuse access to any authorized officer, employee or authorized representative of Town authorized vendor/Town of Oshkosh, who requests access for the purpose of inspection, and who presents appropriate credentials. No person may obstruct, hamper, or interfere with such an inspection.

- (b) Any person who violates a provision of this Chapter may be issued a citation by Town of Oshkosh authorized officer 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 Subsection.
- (c) Penalties for violating this Chapter may be assessed as follows:
 - (1) Any person who violates Section 8-3-12 may be required to forfeit Fifty Dollars (\$50.00) 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.
 - (2) Any person who violates a provision of this Chapter, except Section 8-3-12, may be required to forfeit not less than Ten Dollars (\$10.00) nor more than One Thousand Dollars (\$1,000.00) for each violation.

Title 8 – Chapter 4

Transportation of Solid Wastes

8-4-1	Definitions
8-4-2	Hauler Requirements
8-4-3	License Required
8-4-4	Prohibited Activity
8-4-5	Penalties

Sec. 8-4-1 Definitions.

The following terms shall be applicable in this Chapter:

- (a) **Person.** An individual, partnership, corporation, municipality, unincorporated association or other legal entity, and includes both singular and plural.
- (b) **Solid Waste Landfill or Landfill.** A pit or excavation of open land into which is deposited solid wastes pursuant to a plan of operation approved by, and a permit issued by, the Wisconsin Department of Natural Resources, pursuant to §144.43, etc. seq, Wis. Stats.
- (c) **Solid Waste.** Shall have the meaning set forth in §144.01(15), Wis. Stats., incorporated here by reference.
- (d) **Hauler.** Any person who or which for money or other consideration transports in or through the Town of Oshkosh solid wastes for deposit in a solid waste landfill, except municipalities.

Sec. 8-4-2 Hauler Requirements.

No hauler shall be permitted to transport in or through the Town of Oshkosh solid wastes for deposit in a solid waste landfill, except in compliance with the requirements of this Section:

- (a) The vehicle and any solid waste containers shall be covered when in transport and shall not leak, spill or drop any solid wastes onto any roadway or other property in the Town of Oshkosh except in a Winnebago County solid waste landfill.
- (b) The hauler promptly shall pick up and completely clean any leak, spill or drop of any solid wastes from any vehicle or container used by the hauler in the Town of Oshkosh which occurs on a roadway or property other than a landfill or which the hauler has notice or knowledge of such leak, spill or drop.
- (c) No hauler may transport solid wastes on any Town of Oshkosh highway other than Green Valley Road, except while collecting solid wastes from properties which adjoin such Town of Oshkosh highway. Transportation of solid wastes from any other municipality to any solid waste landfill in the Town of Oshkosh

shall be done only on county, state, or U.S. highways in the Town of Oshkosh which provide access to such landfill, or on Green Valley Road.

Sec. 8-4-3 License Required.

- (a) A hauler shall obtain a license from the Town of Oshkosh for transportation of solid wastes for deposit in a solid waste landfill located in the Town of Oshkosh, and a permit for each vehicle used for such transportation.
- (b) The fee for each license shall be One Hundred Dollars (\$100.00), payable annually.
- (c) The fee for each vehicle permit shall be Twenty-Five Dollars (\$25.00), payable annually.
- (d) Applications for licenses and permits shall be made annually to the clerk of the Town of Oshkosh on or before July 1st. Each application shall identify the hauler, its place of business, its principal operating officers or managers and the vehicles for which permits are requested. Each application shall be accompanied by payment of the license and permit fees established by this Section. The applicant shall, if requested by the Town of Oshkosh, make any such vehicle reasonably available, for inspection from time to time for compliance with this Chapter and applicable state law.
- (e) Licenses and permits shall be issued by the Clerk for applications in compliance with this Section and permits shall be displayed in the front windshield of permitted vehicles.
- (f) Licenses and permits may be granted for fractional years upon application and payment of the fees established by this Section. The Clerk shall act upon such applications within thirty (30) days after receipt and in the absence of issuance within that time an application shall be deemed denied.

Sec. 8-4-4 Prohibited Activity.

- (a) No hauler shall transport for deposit in a landfill located in the Town of Oshkosh any hazardous waste or substance as defined in §144.61(6), Wis. Stats., incorporated here by reference, except traces of such waste or substances which may be contained in household or municipal refuse.
- (b) No hauler shall deposit in a landfill located in the Town of Oshkosh any hazardous waste or substance as defined in §144.61(6), Wis. Stats., incorporated here by reference, except traces of such waste or substances which may be contained in household or municipal refuse.
- (c) No hauler shall deposit or cause to be deposited in a landfill located in the Town of Oshkosh any solid waste generated outside of Winnebago County, Wisconsin, without payment to the Town of Oshkosh of a fee of Fifty Cents (50¢) per wet ton of such solid wastes transported, except that this provision shall not apply to emergency deposits of solid wastes pursuant to agreement between the Town of Oshkosh and Winnebago County.

Sec. 8-4-5 Penalties.

- (a) Violators of Section 8-4-2 shall forfeit not less than One Hundred Dollars or more than One Thousand Dollars (\$1,000.00) for each violation. Each day on which a violation continues shall constitute a separate offense.
- (b) Violators of Section 8-4-3 shall forfeit not less than Five Hundred Dollars or more than One Thousand Five Hundred Dollars (\$1,500.00) for each violation. Each day on which a violation continues shall constitute a separate offense.
- (c) Violators of Section 8-4-4 shall forfeit not less than Five Thousand Dollars (\$5,000.00) shall forfeit not less than Ten Thousand Dollars (\$10,000.00) for each violation. Each day on which a violation continues shall constitute a separate offense.

Disposal of Otherwise Unpermitted Solid Waste in the Winnebago County Landfill

8-5-1	Purpose
8-5-2	Interpretation
8-5-3	Definitions
8-5-4	Permit Application
8-5-5	Hearing
8-5-6	Grant of Permit
8-5-7	Bond or Cash Deposit
8-5-8	Fee Structure
8-5-9	Limitation of Permits
8-5-10	Hazardous Waste Prohibited

Sec. 8-5-1 Purpose.

The purpose of this Chapter is to establish specific procedural requirements with respect to the deposit and disposal of all otherwise unpermitted solid waste having originated, been collected or transported from areas outside Winnebago County, Wisconsin and for deposit and disposal in the Winnebago County Landfill on West Sunnyview Road, formerly located in the Town of Oshkosh, and now located in the City of Oshkosh, Wisconsin.

Sec. 8-5-2 Interpretation.

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

Sec. 8-5-3 Definitions.

In this Chapter:

- (a) **Agreement.** The agreement entered into on September 9, 1991, by and between Winnebago County Solid Management Board and the Town of Oshkosh Local Negotiating Committee, setting forth the terms and conditions of operation of a solid waste disposal facility, constructed by Winnebago County for the deposit of paper mill sludge and municipal waste, said facility being formerly

located in the Town of Oshkosh and now located in the City of Oshkosh, Wisconsin.

- (b) **Unpermitted Solid Waste.** Municipal refuse, paper mill and other sewage treatment sludge and other toxic, non-hazardous solid waste materials originating, collected in or being transported from areas outside Winnebago County, Wisconsin, for deposit or disposal.
- (c) **Hazardous Waste.** Any solid waste identified as hazardous under §291.05(1), (2) or (4), Wis. Stats.
- (d) **Winnebago County Landfill.** That portion of the property located in the South ½ of Section 26, Township 19 North, Range 16 East, lying easterly of U.S. Highway 41, formerly located in the Town of Oshkosh and now located in the City of Oshkosh, Wisconsin.
- (e) **Town Board.** The Town Board of the Town of Oshkosh, Wisconsin.

Sec. 8-5-4 Permit Application.

Before any Unpermitted Solid Waste is deposited or disposed of in the Winnebago County Landfill, the individual, municipality, corporation or other entity must first obtain a written permit application from the Town Clerk of the Town of Oshkosh. The applicant shall file with the Town a verified application in duplicate for a permit to deposit or dispose of any unpermitted solid waste in the Winnebago County Landfill. Said application shall set forth in full detail a complete description of the unpermitted solid waste sought to be deposited or disposed of in the Winnebago County Landfill, including but not limited to the original of all unpermitted solid waste, a full description of the contents thereof, whether any of such waste can be considered hazardous waste, and how it will be transported to, and disposed of within the Winnebago County Landfill.

Sec. 8-5-5 Hearing.

Upon receipt of a completed application for a permit to deposit or dispose of unpermitted solid waste, the Town Board shall set a time and place for a hearing on whether to issue such permit to the applicant. After review and a hearing, the Town Board shall vote whether to accept or decline such application for permit. In the event the Town Board votes to reject any permit application, the Town Board shall set forth in writing no later than ten (10) days following the hearing on such application, all of the reasons upon which the Town Board based such refusal. The Town Board shall not grant a permit for any proposed deposit or disposal of unpermitted solid waste in the event such proposed deposit or disposal would violate any of the provisions of this Chapter, any other ordinance duly enacted by the Town, any statutory provisions enacted by Town ordinance or any provisions of the agreement.

Sec. 8-5-6 Grant of Permit.

Upon the Town Board's approval of an application for a permit to deposit or dispose of unpermitted solid waste in the Winnebago County Landfill, the officer designated by the

Town Board shall issue a written permit authorizing the applicant to deposit or dispose of unpermitted solid waste in the Winnebago County Landfill. No applicant or other entity is permitted to deposit or dispose of any unpermitted solid waste in the landfill until a written permit has been duly granted by the officer designated by the Town Board.

Sec. 8-5-7 Bond or Cash Deposit.

Before the issuance of any permit, the applicant shall execute and file with the Town Clerk a bond approved by the Town Board of the Town of Oshkosh in an amount to be fixed by said Board, but not less than Two Thousand Dollars (\$2,000.00), with a surety company as surety and conditioned for the faithful performance of the conditions contained herein, the observance of all municipal ordinances, and to indemnify the Town of Oshkosh for any damage that may result to Town property as a result of transport to, deposit or disposal of unpermitted solid waste at the Winnebago County Landfill. In the event of any default, the bond shall be forfeited to the Town of Oshkosh.

Sec. 8-5-8 Fee Structure.

The officer designated by the Town Board to issue such permits shall charge and collect as a condition to the hearing for such permit application, a non-refundable application fee of Two Hundred Dollars (\$200.00). The officer designated by the Town Board shall charge and collect a fee of One Hundred Dollars (\$100.00) for all permits that are extended or renewed by the Town Board.

Sec. 8-5-9 Limitation of Permits.

Such permits shall expire by limitation one (1) year from the date of issuance unless extended by the Town Board.

Sec. 8-5-10 Hazardous Waste Prohibited.

The deposit or disposal of any hazardous waste in the Winnebago County Landfill is expressly prohibited.

Title 8 – Chapter 6

Landfills in the Town of Oshkosh

- 8-6-1 Application
- 8-6-2 Environmental Feasibility
- 8-6-3 Toxic or Hazardous Wastes
- 8-6-4 Standards of Operations
- 8-6-5 Public Health
- 8-6-6 Indemnification and Security
- 8-6-7 Facilities Use by Town

Sec. 8-6-1 Application.

This Code shall apply to the ownership, operation and maintenance of all landfills located within the Town of Oshkosh, Winnebago County, Wisconsin.

Sec. 8-6-2 Environmental Feasibility.

No landfill shall be constructed unless its construction and operation first shall have been determined to be environmentally feasible and sound by the Department of Natural Resources, acting pursuant to Wisconsin Statutes as provided from time to time.

Sec. 8-6-3 Toxic or Hazardous Wastes.

No toxic or hazardous wastes, as defined from time to time by Wisconsin or Federal statute or administrative regulation, shall be deposited in any landfill.

Sec. 8-6-4 Standards of Operations.

- (a) All material deposited in any landfill shall be covered with cover material sufficient, in terms of amount and frequency of application, to eliminate public litter and offensive odor, to control rodents and pests, and to maintain a clean and orderly site.
- (b) Vehicles or containers used for the collection or transportation of material for deposit in any landfill shall be loaded and moved in such a manner that the contents will not fall, spill or leak therefrom. Covers shall be provided, as necessary, to prevent littering and spillage. If spillage occurs the operator of the vehicles or owner of the vehicle or container immediately shall return spilled materials to the vehicle or container and properly clean the spill area.

- (c) Hours of operation shall be from 8:00 a.m. to 4:00 p.m., Monday through Saturday, weekly, except by legal holidays.
- (d) All landfills shall be fenced with cyclone fencing at least 5 feet in height. Entrances shall have appropriate gates, with locks. Appropriate warning signs shall be posted to warn the public of all hazards present on the property.
- (e) All landfill sites shall be screened from public view by 3 concentric planted rows of trees, such as arbor vitae and poplar trees.
- (f) All landfill sites shall be constructed so that there shall be no material increase in surface water drainage onto adjoining property as a result of such construction. Existing drainage shall be maintained, in effect, for the benefit of adjoining property.

Sec. 8-6-5 Public Health.

Groundwater monitoring wells shall be constructed and maintained by the owner of any landfill between such landfill and all private wells. There shall be a performance boundary at least 200 feet inside the property limits of the site, and groundwater at this boundary shall be maintained at primary and secondary drinking water standards for inorganic parameters with acceptable levels of total organic halogens.

Sec. 8-6-6 Indemnification and Security.

- (a) The owner and operator of any landfill shall file with the Town of Oshkosh as a condition of operation an undertaking, with surety, in form and amount acceptable to the Town Board, to hold harmless the Town of Oshkosh, its officers, agents and employees, from costs, claims, damages and injuries alleged by any person to have resulted from, or arisen out of the operation of such landfill, including its closure.
- (b) The owner and operator of any landfill shall procure and maintain in effect at all times during operation and for a period of 30 years after closure environmental hazard, risk and damage insurance in form and amounts acceptable to the Town Board.

Sec. 8-6-7 Facilities Use by Town.

- (a) The Town of Oshkosh and its residents and property owners for their personal use may have free access to any landfill site during normal hours of operation for the purposes of depositing therein waste material of the kind and nature that such site is intended and designed to receive.
- (b) The Town of Oshkosh and its residents and property owners for their personal use may have access at customary and usual charges to any sewer or water services available at any landfill site if public health considerations require either in order to correct existing or future health or sanitation conditions in the Town of Oshkosh

Illicit Discharge Control

- 8-7-1 Purpose
- 8-7-2 Definitions
- 8-7-3 Applicability
- 8-7-4 Responsibility for Administration
- 8-7-5 Severability
- 8-7-6 Ultimate Responsibility
- 8-7-7 Discharge Prohibitions
- 8-7-8 Monitoring of Discharges
- 8-7-9 Notification of Spills
- 8-7-10 Enforcement, Penalties, and Remedies
- 8-7-11 Effective Date

Sec. 8-7-1 Purpose.

The purpose of this Chapter is to provide for the health, safety, and general welfare of the citizens of the **Town of Oshkosh** and protect waters of the state through the regulation of illicit discharges to the municipal separate storm sewer system as required by federal and state law. This Chapter establishes methods for controlling the discharge of pollutants into the municipal separate storm sewer system owned or operated by **Town of Oshkosh** in order to comply with the requirements of the Clean Water Act, Chapter 283.33, Wis. Stats., and Wisconsin Pollutant Discharge Elimination System municipal storm water discharge permit program under Chapter NR 216, Wis. Adm. Code.

The objectives of this Chapter are:

- (1) To regulate the contribution of pollutants to the municipal separate storm sewer system associated with discharges from any user of the municipal separate storm sewer system.
- (2) To prohibit illicit connections and discharges to the municipal separate storm sewer system.
- (3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Chapter.

Sec. 8-7-2 Definitions.

For the purposes of this Chapter, the following definitions are applicable:

- (1) “**Authorized agency**” means employees or designees of the director or directors of the municipal agency or agencies of the **Town of Oshkosh** designated to administer or enforce this Chapter.
- (2) “**Illicit connection**” means any drain or conveyance, whether on the surface or subsurface, which allows the discharge of sanitary waste to the municipal separate storm sewer system and any connections to the municipal separate storm sewer system from indoor drains and sinks.
- (3) “**Illicit discharge**” means any discharge to a municipal separate storm sewer that is not composed entirely of storm water except discharges authorized by a WPDES permit or other discharges not requiring a WPDES permit.
- (4) “**Municipal separate storm sewer**” or “**MS4**” means a conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets the following criteria:
 - a. Owned or operated by the **Town of Oshkosh**.

- b. Designed or used for collecting or conveying storm water.
- c. Which is not a combined sewer conveying both sanitary wastewater and storm water.
- d. Which is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.

(5) **“Non-storm water discharge”** means any discharge to the municipal separate storm sewer system that is not composed entirely of storm water.

(6) **“Storm water”** means surface runoff and drainage of rainfall and snow or ice melt.

(7) **“Waters of the state”** means those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, all lakes, bays, rivers, streams, springs, ponds, well, impounding reservoirs, marshes, water courses, drainage systems and other surface water or groundwater, natural or artificial, public or private within the state or under its jurisdiction, except those waters which are entirely confined and retained completely upon the property of a person.

Sec. 8-7-3 Applicability.

This Chapter shall apply to all discharges to the MS4 and to all activities that can reasonably be expected to result in a discharge to the MS4.

Section 8-7-4 Responsibility for Administration.

The **Town of Oshkosh** shall administer, implement, and enforce the provisions of this Chapter.

Any

powers granted or duties imposed by this Chapter upon the authorized agency may be delegated by the Town Board Chair to persons or entities acting in the beneficial interest of or in the employ of the Town.

Sec. 8-7-5 Severability.

The provisions of this Chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Chapter.

Sec. 8-7-6 Ultimate Responsibility.

The standards set forth herein and promulgated pursuant to this Chapter are minimum standards;

Therefore, this Chapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharges.

Sec. 8-7-7 Discharge Prohibitions.

(1) Prohibition of Illicit Discharges.

No person shall discharge or cause to be discharged into the MS4 or waters of the state of any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water. The commencement, conduct or continuance of any illicit discharge to the MS4 is prohibited. The following non-storm water discharges or flows are generally not considered illicit discharges if done so in a non-polluting manner: water line flushing, landscape irrigation, diverted stream flows, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation,

irrigation water, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, de-chlorinated swimming pool water, street wash water and fire fighting.

(2) Prohibition of Illicit Connections.

(a) The construction, use maintenance or continued existence of illicit connections to the MS4 is prohibited.

(b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(c) A person is considered to be in violation of this Chapter if the person connects a line conveying sanitary waste to the MS4, or allows such a connection to continue.

Sec. 8-7-8 Monitoring of Discharges.

Access to Facilities.

The authorized agency shall be permitted to enter and inspect facilities subject to regulation under this Chapter as often as may be necessary to determine compliance with this Chapter. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized agency.

Sec. 8-7-9 Notification of Spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into storm water, the MS4, or water of the state, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the authorized agency within three business days of the phone notice.

Sec. 8-7-10 Enforcement, Penalties, and Remedies.

(a) *Violations.* It shall be unlawful for any person to violate any provision of this Chapter. Each and every day during which the violation continues shall constitute a separate offense. The Town may institute appropriate action of proceedings to enjoin violations of this Chapter.

(b) *Penalties.* Any person who fails to comply with the provisions of this Chapter shall, upon conviction thereof, forfeit no less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) and also pay the costs of prosecution for each violation, including the Town's reasonable and actual attorneys fees and disbursements incurred in the prosecution of such violations.

Sec. 8-7-11 Effective date.

This ordinance shall take effect the day after passage and posting or publication pursuant to law.