

SUBCHAPTER 5: DUMPING AND DISPOSAL OF WASTE

SUBCHAPTER 5: DUMPING AND DISPOSAL OF WASTE**13.500 PURPOSE**

The purpose of this Subchapter is to regulate the dumping or disposal of waste, garbage, refuse, and sludge within the Town, in order to protect the environment, to protect land and property values, to protect the aesthetic beauty of the Town, and to protect and promote the public health, safety, general welfare, and good order of the Town.

13.501 DEFINITIONS

The following words, terms, and phrases, when used in this Subchapter, shall have the meanings ascribed to them by this section

Dumping or Disposal: The terms “dumping” or “disposal” shall mean 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 of Lyndon.

Garbage: The term “garbage” shall mean discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.

Municipality: The term “municipality” shall mean any city, village, town, county, state, or subdivision thereof.

Refuse: The term “refuse” shall mean all combustible and noncombustible discarded material (except garbage) including, but not limited to trash, rubbish, paper, wood, metal, glass, plastic, rubber, cloth, ashes, litter and street rubbish, white goods, discarded appliances, tires, industrial waste, dead animals, mine tailings, gravel pit and quarry spoils, and material and debris resulting from construction or demolition.

Person or Entity: The terms “person” or “entity” shall mean a natural person, sole proprietorship, partnership, limited partnership, corporation, governmental entity, municipal corporation, limited liability company, or any other ownership organization recognized under Wisconsin Law as having the power to conduct business.

Sludge: The term “Sludge” shall mean sewage treatment residue in any form whatsoever, whether solid, semi-solid, or liquid, which has been processed or treated in any way, form or manner, including, by way of illustration and not by way of limitation, the contents of any septic tank or septic system.

Waste: The term “waste” shall mean garbage, refuse, and all other discarded or salvageable material, including waste materials resulting from industrial, commercial, and agricultural operations and from domestic use and public service activities.

13.502 RESERVED FOR FUTURE USE**13.503 DUMPING AND DISPOSAL PROHIBITED**

No person or entity, shall dump or dispose of waste, garbage, refuse, or sludge within the Town, except as provided in §13.505 below, or except as allowed by permit pursuant to §13.507 below.

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13.504 PRE-EXISTING ACCUMULATIONS

Pre-existing accumulations of items, which are subject to this ordinance, (i) shall not be increased or expanded, in number or geographic area, without a permit, and (ii) shall be brought into compliance with the provisions of this Ordinance no later than two (2) years from the date of the adoption of this Ordinance. Furthermore, the removal of one regulated item (e.g. a discarded appliance) shall not be replaced with another regulated item (e.g. another discarded appliance), without a permit.

13.505 EXCEPTIONS

The following dumping or disposal activities do not require a Permit:

- (1) **HOUSEHOLD WASTE:** Sites used for the dumping or disposal of waste, garbage, or refuse generated from a single family, a single household, or a single farm, which meet all of the following requirements:
 - (a) The family or farm generating the waste must be located on the property where the items are dumped (i.e. waste can not be dumped on a neighbor's property);
 - (b) The waste, garbage, or refuse must be dumped in a location hidden from the view of all neighbors' homes and from the view of all persons using the public highways;
 - (c) The waste, garbage, or refuse must not cause a public or private nuisance (i.e. it must not generate offensive odor, or create a breeding ground for pests, or pollute streams or groundwater, etc).
 - (d) The activity must comply with all Federal, State, County, and Town rules and regulations regarding the dumping and disposal of waste, garbage, and refuse.
- (2) **PRIVATE SEPTIC SYSTEMS:** The construction and use of sanitary privies and what are commonly known as seepage beds, septic systems, mound systems, or septic tanks, which conform to all applicable rules and regulations of the State, County, and Town.
- (3) **PUBLIC SEWERAGE SYSTEMS:** The construction and use of a public sewerage system which conforms to all applicable rules and regulations of the State, County, and Town.
- (4) **TOWN WORK:** Any dumping or disposal operation under the direction and control of the Town of Lyndon.

13.506 RESERVED FOR FUTURE USE**13.507 PERMITS FOR DUMPING OR DISPOSAL**

A person may obtain a permit from the Town to dump or dispose of waste, garbage, refuse, or sludge within the Town of Lyndon, pursuant to the procedure and under the conditions prescribed herein.

13.508 APPLICATION

A written Application for a permit shall be filed with the Town Clerk and shall contain the following:

- (1) The name, address, telephone number, and signature of the applicant(s).
- (2) The name, address, telephone number, and signature of all land owner(s).
- (3) The name, address, and telephone number of the intended operator(s).
- (4) The name and address of all property owners who own property adjacent to the property upon which the site will be located.
- (5) The address of the proposed dump site.
- (6) An aerial photograph of the proposed site, including all land within 1,000 feet of the site. (These photos can be obtained from the Juneau County Land Information Office).

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- (7) A detailed description of the type of materials intended to be dumped at the site, and a plan of operation.
- (8) A statement describing the amount or number of items intended to be stored at the site.
- (9) A statement that the applicant and land owner shall comply with all Federal, State, County, and Town rules and regulations regarding the dumping and disposal of waste, garbage, and refuse.
- (10) A copy of the permits and licenses received from the Federal, State, and County authorities, which authorize the proposed operation.
- (11) Any other information which the Town Board deems necessary to properly review the application, e.g. proof of financial responsibility of the applicant, operator, and/or owner; a transportation impact study; an environmental impact study; and any other information deemed necessary.

13.509 FEE

An application fee, in an amount established by separate resolution of the Town Board, shall be paid when the application is filed with the Clerk.

13.510 PUBLIC HEARING AND NOTICE

A public hearing on the application shall be conducted by the Town Board, no sooner than 30 days after filing of the Application. Notice of the public hearing shall be posted and published by the Clerk as a Class 2 notice, and notice shall be mailed by the Clerk to all adjacent property owners at least 10 days before the public hearing.

13.511 RESERVED FOR FUTURE USE**13.512 STANDARDS OF REVIEW**

The following issues shall be considered and addressed by the Board in deciding whether to issue a permit:

- (1) Whether the proposed operation on the proposed site complies with the Town's Zoning Ordinance.
- (2) Whether the proposed operation, in its proposed location and as depicted on the required site plan, will cause a substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may exist in the future.
- (3) Whether the proposed operation will comply with the regulations set forth below.
- (4) Whether the proposed owner and operator have demonstrated the experience, knowledge, ability, and willingness to comply with the regulations set forth below.
- (5) Whether the potential public benefits of the proposed operation outweigh the potential adverse impacts of the proposed operation, after taking into consideration the Applicant's proposal, including the Applicant's suggestions to ameliorate any adverse impacts.
- (6) Whether the size and scope of the proposed operation is appropriate for the site.

13.513 DECISION

Within 60 days after the public hearing (or within an extension of said period requested in writing by the Applicant and granted by the Board), the Board shall issue a decision either (i) in the form of a written resolution, and/or (ii) in the formal minutes of its meeting. Its decision shall include formal findings of fact concerning the standards of §13.512 above. In making its decision, the Board may take any of the following actions:

- (1) **APPROVAL:** The Board may approve the application as originally proposed; or
- (2) **APPROVAL WITH MODIFICATIONS OR CONDITIONS:** The Board may approve the application with such modifications and conditions as it deems necessary and appropriate after consideration of the purposes of this Ordinance, after consideration of the standards

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of review set forth above, after consideration of the regulations set forth below, and consideration of the recommendations of citizens, experts, its own members, and any other source; or

- (3) **DENIAL:** The Board may deny the application.

The Board's approval, with or without modifications or conditions, shall be considered the approval of a unique request, and shall not be construed as precedent for any other similar application.

13.514 EFFECT OF DENIAL

An application which has been denied (in whole or in part) shall not be resubmitted for a period of 12 months from the date of said denial, unless the Clerk first determines that either (i) substantial and material new evidence has arisen, or (ii) a substantial and material change of circumstances has occurred, regarding an issue which was relevant and significant to the prior decision to deny the application.

13.515 RESERVED FOR FUTURE USE

13.516 REGULATIONS

Any person or entity authorized by a Permit granted hereunder, or by §13.505 above, to engage in dumping or disposal operations in the Town shall comply with the following regulations:

- (1) No operation shall be conducted in such a way as to constitute a public or private nuisance.
- (2) No operation shall be conducted within 2,500 feet of any residence in existence when the operation is commenced, except the residence of the owner or operator of the operation.
- (3) No operation shall be conducted in a location which is visible from any residence in existence when the operation is commenced, except the residence of the owner or operator of the operation. Visibility may be controlled by natural vegetation and/or berms, but not by fencing or other artificial means.
- (4) No operation shall be conducted within 2,500 feet of any public highway or Town road in existence when the operation is commenced.
- (5) No operation shall be conducted in a location which is visible from any public highway or Town road. Visibility may be controlled by natural vegetation and/or berms, but not by fencing or other artificial means.
- (6) No operation shall be placed in a location and conducted in such a manner as to adversely affect the value of surrounding lands.
- (7) No operation shall be conducted in such a manner as to permit dust, dirt, debris, or other materials, substances, or odors to be carried by wind across the boundary of the parcel of land being used for the operation.
- (8) A covering of dirt shall be placed over all of the area used for dumping or disposal within a reasonable time (not exceeding 10 days) after each dumping or disposal occurs.
- (9) The operation shall comply with the Zoning Ordinance of the Town of Lyndon.
- (10) The operation shall comply with all Federal, State, and County rules and regulations regarding the operation intended.
- (11) The operation shall obtain and maintain all permits and licenses required by the Federal, State, and County authorities, which authorize the proposed operation (e.g. a license from the State and/or County to operate a dump).
- (12) Any "permitted" operation shall comply with the terms, conditions, and restrictions imposed by the permit.

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13.517 BOND

The Town Board reserves the right to require the applicant, the owner, and/or the operator to post a bond, the conditions of which may be: that this ordinance shall be observed; that the dumping or disposal plan will be carried out; that if there is a violation of this Ordinance or if the dumping or disposal plan is not carried out, all penalties, legal costs, and remediation expenses imposed hereunder shall be paid.

13.518 CHANGE OF OWNERSHIP

Permits shall run with the land. All requirements of a permit shall be maintained, regardless of ownership of the subject property.

13.519 RESERVED FOR FUTURE USE**13.520 ENFORCEMENT AND PENALTIES**

- (1) **REVOCACTION:** Upon violation of this Ordinance, any permit issued hereunder may be revoked by the Town Board, pursuant to the following procedure. Written notice of the violation shall be filed with the Town Clerk and mailed to the permittee, along with notice of a hearing, which shall be scheduled not less than 10 days after mailing of the notice. The Town and the permittee may produce evidence and witnesses, cross-examine witnesses, and be represented by counsel. The Town Board shall consider the evidence and testimony, and then render a decision. Nothing herein shall prevent or limit the Town's right to seek the other remedies provided herein, in addition to or in lieu of revocation of the permit.
- (2) **FORFEITURES:** Except as otherwise provided herein, any person or entity who shall violate any provision of this Ordinance shall, upon conviction thereof, be subject to the following forfeitures:
 - (a) \$100 for the 1st day a violation occurs; and
 - (b) \$10 per day for each day the violation continues, without full and complete abatement, for the next 29 days (i.e. days 2 thru 30); and
 - (c) \$25 per day for each day the violation continues, without full and complete abatement, for the next 90 days (i.e. days 31 thru 120); and
 - (d) \$50 per day for each day the violation continues, without full and complete abatement, for the next 90 days (i.e. days 121 thru 210) ; and
 - (e) \$100 per day for each day the violation continues thereafter, without full and complete abatement (i.e. violations longer than 210 days).
- (3) **MONEY JUDGMENT AND EXECUTION:** Whenever any person or entity fails to pay any forfeiture, the Court, in lieu of imprisonment or in addition to imprisonment or after release from imprisonment, may do the following:
 - (a) The Court may render a money judgment against the defendant in favor of the Town for such forfeiture, and said judgment may then be docketed and collected by the Town in any manner permitted by law; and/or
 - (b) The Court may issue an execution against the property of the defendant for the payment of such forfeiture and costs, pursuant to the procedures set forth in Chapter 815 of the Wisconsin Statutes.
- (4) **ABATEMENT OF VIOLATIONS:** In addition to any other penalty provided herein, the Town may seek the removal, prevention, and/or abatement of any violation of any provision of this Ordinance. Such remedies may be joined with any action seeking a forfeiture, or may be separately commenced and maintained. When any such remedy is sought, the Court may order, in addition to any forfeiture authorized herein, the removal, prevention, and/or abatement of a violation as follows:

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- (a) By the violator at the violator's sole expense, and/or
- (b) If the violator fails to remove, prevent, and/or abate the violation within the time limits established by the Court, then by the Town at the sole expense of the violator. If the Town incurs expenses in the removal, prevention, and/or abatement of any violation, the Town may collect said expenses by application to the Court for one or more of the following:
 - 1. The Court may impose upon the violator a new or additional forfeiture in the amount not to exceed the expenses incurred, and in default of payment of such forfeiture, the Court may imprison the violator in the county jail until such forfeiture is paid, but not exceeding 90 days; and/or
 - 2. The Court may issue an execution against property of the violator for such expenses pursuant to Chapter 815 Wis. Stats.; and/or
 - 3. The Court may render a money judgment against the violator in favor of the Town for such expenses, and said judgment may then be docketed and collected by the Town in any manner permitted by law.
- (5) **RESTITUTION:** In addition to any other penalty provided herein, the Court may order the payment of restitution for violations of this Code in conformity with § 943.24 and 943.50 Wis. Stats., and shall use the restitution procedures as provided therein.
- (6) **MULTIPLE VIOLATIONS:** Each violation and each day a violation continues or occurs, shall constitute a separate offense. Prosecution of two or more offenses committed by the same violator may be joined into one action, and the prosecution of two or more violators for the same offense may be joined into one action.

13.521 OTHER LAWS APPLICABLE

Nothing herein shall be deemed to limit or restrict the application of any Federal, State, or County law, ordinance, or rule regulating the subject of this Ordinance. Compliance with this Ordinance does not excuse compliance with all other applicable laws.

13.522 SEVERABILITY

Should any section, clause, or provision of this Ordinance be declared by a Court to be invalid, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

13.523 RESERVED FOR FUTURE USE**13.524 EFFECTIVE DATE**

- (1) **EFFECTIVE DATE:** This Ordinance shall become effective upon its passage and publication.
- (2) **REPEAL:** Existing Ordinances 7 and 7A (including all resolutions adopted pursuant thereto) are hereby repealed, except for the following:
 - (a) Any offense or act committed, any penalty or forfeiture incurred, or any contract or right established or accruing, under old Ordinance 7 or 7A before the effective date of this Ordinance.
 - (b) Any resolution, passed under old Ordinance 7 or 7A, which is not in conflict with the provisions of this new Ordinance.
 - (c) Any permit or other right granted by the Town under old Ordinance 7 or 7A.
- (3) **ENFORCEMENT OF REPEALED ORDINANCES:** Nothing herein shall be construed to limit or prevent the Town from enforcing, after the effective date of this Ordinance, the repealed Ordinance 7 or 7A, for any violation occurring prior to the effective date of this new Ordinance. The adoption of this new Ordinance shall not constitute a waiver of any

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violation of the previous ordinances or resolutions, nor shall it cause any such prior violations to become permitted or grandfathered, nor shall it cause any such prior violations to become legal non-conforming uses or structures, regardless of whether such violations were known or unknown, discovered or discoverable, by the Town prior to the effective date of this Ordinance.

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