

TOWN OF FARMINGTON ORDINANCE

AN ORDINANCE REGARDING THE REGULATION OF PUBLIC HEALTH AND PUBLIC NUISANCES

The Town of Farmington, Polk County, Wisconsin, does hereby ordain as follows:

CHAPTER I PUBLIC HEALTH

- (1) **PURPOSE.** This purpose of this chapter is to regulate the dumping of disposal of waste, garbage, refuse and sludge by individuals, corporations and municipalities 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 contained in this chapter.

It is specifically intended that this ordinance shall not apply to the regulation and/or control of septage as the same is defined in Sec. 146.20, Wisconsin Statute. Further, this ordinance shall not operate to regulate and/or control the disposal of said material which is subject to licensing and supervision by the State of Wisconsin, Department of Natural Resources.

- (2) **DEFINITIONS.** The following terms shall have the meanings indicated:

Dumping or Disposal. Dumping or disposal includes 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.

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

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

Refuse. Refuse is 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. Sludge is 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.

Municipality. Municipality is any city, village or town.

(3) **PERMIT REQUIRED.** Except as expressly permitted in sub. (4) below, no individual, corporation or municipality 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 chapter.

(4) **EXCEPTIONS.** The following shall not be deemed to come within the scope or meaning of this chapter:

(a) Sites 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 that such waste, garbage or refuse is placed in suitable containers or stored in such other way as to not cause a public or private nuisance.

(b) The use of sanitary privies and what are commonly known as seepage beds or septic tanks which conform to applicable ordinances of the Town or the discharge of human waste products into the public sewage system located within the Town.

(c) A farm on which only animal waste resulting from the operation of the farm are disposed of.

(d) Any dumping operation under the direction and control of the Town.

(e) Inert material, trees or brush generated on and disposed of on the same parcel.

(f) Materials of value brought onto a site to construct improvements or enhance its appearance (i.e. Landscaping).

(5) **GENERAL REGULATIONS.** Persons or municipalities who are permitted to engage in dumping or disposal operations shall be subject to the following regulations:

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

(b) The dumping or disposal operations shall be permitted only in the agriculturally or industrially zoned areas set forth in the official zoning map of the Town.

(c) Persons, corporations or municipalities engaged in dumping or disposal operations shall conduct the operations 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 dumping or disposal operations.

(d) A covering which meets the standard of the Wisconsin Department of Natural resources shall be placed over all the area used for the disposal operation within a reasonable time not to exceed thirty (30) days after the permit expires. The covering must be done so as to make the area covered compatible with the surrounding and adjacent property in such a way as to not substantially depreciate property values within the immediate area unless property owners have been previously compensated for the loss.

(6) **APPLICATION.** There shall be a public hearing on any application for a permit to engage in dumping or disposal operations. The applications shall be on file with the Town Clerk at least forty (40) days before the public hearing. The application shall contain:

- (a) The name and address of the applicant.
- (b) An explanation of the nature and purpose of the dumping or disposal and a detailed description of the dumping or disposal plan.
- (c) Copies of any State, County or Federal permits that are required.
- (d) Name and address of adjacent property owners.
- (e) A plan for financial, legal and environmental protection of the Town, its employees and agents and for current and future residents living within one (1) mile of the disposal site.

(7) **PUBLIC HEARING.** A public hearing will be required under the following terms:

- (a) Notice shall be given as a class 3 notice as described in Section 985.07, Wis. Stats.
- (b) The cost of publication of such notices shall be deposited by the applicant in advance.
- (c) A public hearing shall be held on the date specified in the notices 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.

- (8) **BOND AND REVOCATION OF PERMIT.** The Town Board reserves the right to require the applicant to post a bond, the condition of which will be that this section shall be observed and the dumping or disposal plan will be carried out and any penalties imposed shall be paid. If there is a violation of this section or the dumping and disposal plan is not carried out, the Town Board shall have the right to retain a court order terminating such dumping or disposal operation. If after a reasonable demand, the owner of the land does not cover the dumping or disposal area in accordance with the dumping or disposal plan, the Town Board shall have the right to correct the violation and charge the expense against the bond.
- (9) **ISSUANCE.** Application for a permit shall be processed within 90 days of its receipt and shall be issued if the Town Board is satisfied that there has been and will be reasonable compliance with the conditions enumerated herein.

The Board may grant such permit for a period of up to six (6) months. Such permit may be renewed upon satisfactory application.

- (10) **REVOCATION.** The permit once issued may be revoked after public hearing upon a published class 1 notice by the Town at any time if any of the conditions necessary for the issuance or any terms of this chapter are violated. Applicant shall be given at least 24 hours notice of any such contemplated action.
- (11) **STATE LAW ALSO APPLIES.** Nothing contained in this chapter 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 chapter.
- (12) **COUNTY ZONING OR DISPOSAL ORDINANCE.** Any present or future county zoning or disposal ordinance or State statute or administrative regulation, which is more restrictive than this ordinance shall take precedence.
- (13) **PENALTY.** Except as otherwise provided in this chapter, any person found to be in violation of this chapter shall be subject to a forfeiture not to exceed \$200.00 for each violation. Each day of violation shall constitute a separate offense.

CHAPTER II PUBLIC NUISANCES

- (1) **PUBLIC NUISANCES PROHIBITED.** No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Town.
- (2) **DEFINITION.** A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:
 - (a) Substantially annoy, injure or endanger the comfort health, repose or safety of the public.
 - (b) In any way render the public insecure in life or in the use of property.
 - (c) Greatly offend the public morals or decency.
 - (d) Unlawfully and substantially interfere with, obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way or the use of public property.
 - (e) The conduct of farming operations and ordinary related activities is not a public nuisance.
- (3) **PUBLIC NUISANCES AFFECTING HEALTH.** The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of section 2 of this chapter:
 - (a) All decayed, harmfully adulterated or unwholesome for human consumption food sold or offered for sale to the public.
 - (b) Carcasses of animals, birds or fowl not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within a reasonable time (72 hours) after death.
 - (c) Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease carrying insects, rats or other vermin may breed.
 - (d) All stagnant water in which mosquitoes, flies or other insects can multiply.
 - (e) Privy vaults and garbage cans which are not flytight.

(f) The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the Town limits or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property in the Town.

(g) The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.

(h) Any use of property, substances or things within the Town emitting or causing any foul, offensive, noisome, nauseous or disagreeable odors, gases effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the Town.

(i) All abandoned wells not securely covered or secured from public use.

(j) Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the Town.

(4) PUBLIC NUISANCES OFFENDING MORALS AND DECENCY. The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisance offending public morals and decency coming within the definition of Section 2, of this chapter:

(a) All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.

(b) All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for by Town ordinances.

(c) Any place or premises within the Town where Town Ordinances or State laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.

(d) Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of Wisconsin or ordinances of the Town.

(5) PUBLIC NUISANCES AFFECTING PEACE AND SAFETY. The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of Section 2, of this chapter:

(a) All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.

(b) All buildings erected, repaired or altered within the limits of the Town in violation of the provisions of the ordinances of the Town relating to materials and manner of construction of buildings and structures within the district.

(c) All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad or signal or which, because of its color, location, brilliance or manner of operation, interferes with the effectiveness of any device, signal or sign.

(d) All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys, or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.

(e) All limbs of trees which project over and less than 14' above the surface of a public sidewalk or street or less than 10' above any other public place.

(f) All use or display of fireworks, except as provided by the law of the State.

(g) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.

(h) All wires over streets, alleys or public grounds which are strung less than 15' above the surface.

(i) All loud, discordant and unnecessary noises or vibrations of any kind.

(j) The keeping or harboring of any animal or fowl which by frequent

or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the Town.

(k) All obstructions of streets, alleys sidewalks and all excavations in or under the same, except as permitted by the ordinances of the Town or which, although made in accordance with such ordinances, are kept or maintained for unreasonable or illegal length of time after the purpose has been accomplished.

(l) All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.

(m) All abandoned refrigerators or ice boxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.

(n) Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.

(o) Repeated or continuous violations of the ordinances of the Town or laws of the State relating to the storage of flammable liquids.

(6) **ACCUMULATION OF JUNK, DEBRIS, ETC. PROHIBITED.** The accumulation or storage of automobiles or parts thereof, trucks, tractors, refrigerators, furnaces, washing machines, stones, machinery or parts thereof, junk of any type, wood, brick, cement block or and other unsightly debris as may tend to depreciate property values in the area or create an attractive nuisance or hazard or any nuisance is prohibited on any lot or parcel of land in the Town, except as may be allowed by permit issued by the Town Board unless the materials are properly housed and out of public view. Notwithstanding the foregoing, the storage of junked and abandoned vehicles is governed by the Town of Farmington Ordinance regulating the storage of abandoned and junked vehicles.

(7) **IMPROPER EXHIBITIONS PROHIBITED.** It shall be unlawful and a public nuisance for any person to perform, or for any licensee holding a license to sell intoxicating beverages, wines or beer, or for any manager or agent of any licensee to permit any employee, entertainer or patron of said premises, to engage in any live act, demonstration, dance or exhibit on any licensed premises, or any other premises within said Town, which:

(a) Exposes his or her genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or

(b) Exposes any device, costume or covering which gives the appearance of or simulates genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or

(c) Exposes any portion of the female breast at or below the areola thereof; or

(d) Engages in or simulates sexual intercourse and/or any sexual contact, including the touching of any portion of the female breast or the male and/or female genitals.

(8) ABATEMENT OF PUBLIC NUISANCES.

(a) **INSPECTION OF PREMISES.** Whenever a complaint is made to the Town Chairman or other public official of the Town that a public nuisance exists within the Town, they shall promptly notify the Health Officer, Building Inspector or Constable who shall inspect or cause to be inspected the premises complained of and shall make a written report of his findings to the Town Chairman. Whenever practicable, the inspecting officer shall cause photographs to be made of the premises and shall file the same in the office of the Town Clerk.

(b) **SUMMARY ABATEMENT. Notice to the Owner.** If the inspecting officer shall determine that a public nuisance exists within the Town and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Town Chairman may direct the Constable to serve notice on the person causing, permitting or maintaining such nuisance or upon the owner or occupant of the premises which the nuisance is caused, permitted or maintained and to post a copy of the notice on the premises. Such notice shall direct the person causing, permitting or maintaining the nuisance or the owner or occupant of the premises to abate or remove the nuisance within 7 days and shall state that unless the nuisance is so abated, the Town will cause the same to be abated and will charge the cost to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

Abatement by Town. If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the Health Officer in case of health nuisances and a Constable in other cases shall cause the abatement or removal of the public nuisance.

(c) **ABATEMENT BY COURT ACTION.** If the inspecting officer shall determine that a public nuisance exists on private premises, but that the nature of the nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals and

decency, they shall file a written report of their findings with the Town Chairman who shall cause an action to abate such nuisance to be commenced in the name of the Town in the Circuit Court of Polk County in accordance with the provisions of Ch. 823, Wis. Stats.

(d) **OTHER METHODS NOT EXCLUDED.** Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the Town or its officials in accordance with the laws of Wisconsin.

(9) **COST OF ABATEMENT.** In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Town shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance and if notice to abate the nuisance has been given to the owner, the cost shall be assessed against the real estate as a special charge.

(10) **PENALTY.** Except as otherwise provided, any person who shall violate any provision of this chapter or permit or cause a public nuisance shall be subject to a forfeiture not to exceed \$200.00 for each violation. Each day of violation shall constitute a separate offense.

(11) **ENFORCEMENT.** All actions to enforce this ordinance, by penalty or forfeiture, shall be governed by the Town of Farmington Ordinance relating to the issuance of citations for violation of a Town of Farmington Ordinance.

CHAPTER III VALIDITY

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

CHAPTER IV CONFLICTING PROVISION REPEALED.

All Ordinances in conflict with any provisions of this Ordinance are hereby repealed.

Dated this ____ day of _____, 1997.

TOWN OF FARMINGTON

By: _____
Donald Getschel, Town Chairman

By: _____
Dennis Potting, Supervisor

By: _____
Dennis Cottor, Supervisor

By: _____
Debbie Swanson, Clerk/Treasurer

Date passed _____

Voted For _____

Voted Against _____

Date Published _____