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1-10-89

TOWN SOLID WASTE DISPOSAL ORDINANCE

THE TOWN BOARD OF THE TOWN OF NIAGARA,
NIAGARA, WISCONSIN, DOES ORDAIN AS FOLLOWS:

Section 1--Purpose:

The purpose of this ordinance is to regulate the disposal of waste, garbage, refuse, and sludge by individuals, corporations, and municipalities within the Town of NIAGARA. Because of the possible danger to the health, safety, and welfare of the public, such disposal within the Town shall be permitted only under the terms and conditions of this ordinance.

Section 2--Definitions:

A. Disposal. 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 of NIAGARA.

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

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

D. 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, and material and debris resulting from construction or demolition.

E. Sludge. Sludge is sewage treatment residue in any form whatsoever, whether solid, semisolid, or liquid, that has been processed or treated in any way, form, or manner. It does not include septage to be spread on land as defined and regulated by s.146.20 Wisconsin Statutes 1985-86.

F. Municipality. Municipality is any city, village, town, or county.

Section 3--Permit Required:

Except as expressly permitted in Section 4, no person, corporation, or municipality shall dispose of waste, garbage, refuse, or sludge within the Town of NIAGARA unless a permit to engage in such dumping or disposal is first obtained from the Town under the conditions prescribed herein.

Section 4--Exceptions:

The following are not within the scope or meaning of this ordinance:

A. Sites used for the 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, however, that such waste, garbage, or refuse is placed in suitable containers or stored in such other way as not to 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 any public sewerage system located within the Town.

C. A farm on which only animal waste resulting from the operation of the farm is disposed of.

D. Any waste disposal operation under the direction and control of the Town.

Section 5--General Regulations:

Persons or municipalities permitted to engage in disposal operations in the Town are subject to the following regulations:

A. The disposal operations must be conducted in such a way as not to constitute a public or private nuisance.

B. The disposal operations are permitted only in the agriculturally or industrially zoned areas as set forth in the official zoning map of the Town.

C. Persons or municipalities engaged in dumping or disposal operations must conduct the operations in such a way that dust, dirt, debris, or other materials or substances will not be carried by wind or water across the boundary of the parcel of land being used for the operations.

D. A covering, which meets standards established by the Wisconsin Department of Natural Resources, shall be placed over all of the area used for the disposal operation within a

reasonable time, not to exceed 10 days, after the disposal occurs. The covering must be done so as to make the area covered compatible with the surrounding and adjacent property in such a way as not substantially to depreciate property values within the immediate area unless property owners have been previously compensated for the loss.

Section 6--Application:

An application shall be filed with the Town Clerk at least 30 days before a public hearing is held. The application and accompanying information shall be followed by a sworn statement that they are true and factual. The information to be provided shall include:

1. Name, address, and telephone number of the applicant.
2. Location, current owners, and legal description of the site of the proposed facility.
3. Names, addresses, and telephone numbers of any persons who will represent the applicant.
4. Copies of available site reports, feasibility reports, engineering plans, or other documents filed or to be filed with the Department of Natural Resources, or the U.S. EPA, that are related to the proposed facility.
5. A plan for construction, operation, maintenance, closure, and long-term care of the proposed facility that describes the size, capacity, and other features of the site and its proposed future.
6. A plan for financial, legal, and environmental protection of the Town government, its employees and agents, and for current and future residents living within one mile of the facility.
7. Proposed traffic patterns to and from the proposed facility and for roadway usage for access to the site.
8. Copies of current financial statements or other financial information.

Section 7--Public Hearing:

A public hearing will be held at which the Town Board will invite all interested parties from the Town and the applicant to provide information as to (1) the need for the permit, (2) positive and negative potential effects of the proposed facility on the Town and its residents, and (3) the probability of reasonable compliance by the applicant with the General

Regulations of this ordinance. The hearing will be of an informational nature for the Town Board. The hearing will be held under the following conditions:

A. A Class 3 notice as prescribed by statute will be given.

B. The cost of publication of such notice will be deposited in advance by the applicant.

C. The hearing will be held on the date specified in the notice or on any adjourned date.

Section 8--Application Fee and Costs:

An application for a permit for a solid waste facility shall be filed with the Town Clerk in writing. The initial application fee of \$5,000 shall accompany the application, unless waived or reduced by the Town Board. In addition, the Town Board may charge the applicant an additional fee to reimburse the Town for appropriate and necessary costs and expenses incurred by the Town for attorneys' fees and experts' fees related to the application process. The total application fees, both initial and subsequent, shall not exceed \$20,000 for any application.

Section 9--Bond and Revocation of Permit:

A permit under this ordinance shall not be effective unless there is on file with the Town Clerk a cash bond or a bond with a corporate surety duly licensed in the State of Wisconsin in the penal amount of \$100,000. The bond is to assure that the applicant will comply with all the provisions of this ordinance and will save harmless, indemnify, and defend the town, its officers, its representatives, and its agents from any expenses or costs incurred through action of the applicant with regard to the facility.

If the ordinance is violated or if the disposal plan is not carried out, the Town shall have the right to revoke the disposal permit after a public hearing and, if necessary, to obtain a court order terminating such operation. If the owner of the land does not cover the disposal area in accordance with the disposal plan, the Town Board shall have the right to correct the violation and to charge the expense against the bond.

The applicant for a disposal permit, in making the application, grants to the Town the right to go on the land for necessary inspections at any time and to carry out the disposal plan if the owner or occupant of the land fails to do so after reasonable notice is given.

Section 10--Issuance:

The application for a permit shall be processed within 90 days of the receipt of a completed application accompanied by full documentation and required bond. It shall be issued if the Town Board is satisfied that there has been and will be reasonable compliance with the conditions of this ordinance.

Section 11--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 upon which it was issued or any terms of the ordinance are violated.

Section 12--State Law Also Applies:

Nothing contained herein 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 ordinance.

Section 13--References:

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

Section 14--Severability and Conflict:

If any section, subsection, sentence, clause, phrase, or word of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions.

Section 15--Penalty:

Any person violating this ordinance shall be fined not less than \$10.00 nor more than \$200.00 for each offense. Each day of violation shall constitute a separate offense under this ordinance. Imprisonment in the county jail can be ordered only for failure to pay the fine that may be imposed. If imprisonment is ordered for failure to pay the fine, it shall be limited to one day of confinement for each \$5.00 of fine or fraction thereof.

Section 16--Effective Date:

This ordinance shall take effect the day after proof of posting and publication has been filed and recorded with the Town Clerk.

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