

TOWN OF FOUNTAIN PRAIRIE ORDINANCE NO. 08-04
CHAPTER 5 - WASTE TREATMENT, DISPOSAL AND STORAGE

SECTION 1 – TITLE AND PURPOSE

The title of this ordinance is the Town of Fountain Prairie Waste Treatment, Disposal and Storage Ordinance. The purpose of this ordinance is for the Town of Fountain Prairie to regulate by permit and penalty, the construction, maintenance, operation, closure and long-term care of certain waste treatment, disposal and storage facilities or sites in the Town.

SECTION II – AUTHORITY

The Town Board of the Town of Fountain Prairie, Columbia County, Wisconsin has the specific authority under s.289.22, WI Statutes and general authority under its village powers under s.60.22, WI Statutes to adopt this ordinance.

SECTION III – ADOPTION OF ORDINANCE

The Town Board of the Town of Fountain Prairie, Columbia County, Wisconsin, by this ordinance, adopted on proper notice with a quorum and by a roll call vote by a majority of the Town board present and voting, provides the authority for the Town to regulate and permit the construction, maintenance, operation, closure and long-term care of certain waste treatment, disposal and storage facilities or sites in the Town.

SECTION IV – DEFINITIONS

In this ordinance:

A. "Solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded or salvageable materials including solid, liquid, semisolid or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations and from community activities, but does not include solids or dissolved materials in domestic sewage or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permits under chapter 283, WI Statutes or source material as defined in s.254.31 (1), WI Statutes, special nuclear material as defined in s.254.31 (11), WI Statutes or by-product material, as defined in s.254.31(1), WI Statute.

B. "Solid waste facility" means a facility for solid waste treatment, solid waste storage or solid waste disposal and includes commercial, industrial, municipal, state and federal establishments or operations such as, without limitation because of enumeration, sanitary landfills, dumps, land disposal sites, incinerators, transfer stations, storage facilities, collection and transportation services and processing treatment and recovery facilities. "Solid waste facility" includes the land where the facility is located. "Solid waste facility" does not include any of the following:

1. A facility for the processing of scrap iron, steel or nonferrous metal using large machines to produce a principal product of scrap metal for sale or use for remelting purposes.
 2. A facility that uses large machines to sort, grade, compact or bale clean wastepaper, fibers or plastics not mixed with other solid waste, for sale or use for recycling purposes.
 3. An auto junkyard or scrap metal salvage yard.
 4. Any facility exempt from Town regulation by state law or regulation, including certain demolition facilities.
- C. "Solid waste disposal" means the discharge, deposit, injection, dumping or placing of any solid waste into or on any land or water. "Solid waste disposal" does not include the transportation, storage or treatment of solid waste.
- D. "Solid waste storage" means the holding of solid waste for a temporary period, at the end of which period the solid waste is to be treated or disposed.
- E. "Solid waste treatment" means any method, technique or process that is designated to change the physical, chemical or biological character of composition of solid waste, including incineration.
- F. "hazardous waste" means any solid waste identified by the State of Wisconsin, Department of Natural Resources as hazardous under s.291.05 (1), (2) or (4), WI Statutes.
- G. "Hazardous waste facility" means a site or structure for the treatment, storage or disposal of hazardous waste and includes all of the contiguous property under common ownership or control surrounding the site or structure.
- H. "Town" means the Town of Fountain Prairie, Columbia County, Wisconsin.
- I. "Town Board" means the Board of Supervisors for the Town of Fountain Prairie, Columbia County, Wisconsin and includes designees of the Board authorized to act for the Board.
- J. "Town Clerk" means the clerk of the Town of Fountain Prairie, Columbia County, Wisconsin.
- K. "WI Statutes" means the Wisconsin Statutes, including successor provisions to cited statutes.

SECTION V – SUBDIVISION AND NUMBERING OF THIS ORDINANCE

This ordinance is divided into sections designated by upper case Roman numerals. Sections may be divided into subsections designated by upper case letters. Subsections may be divided into paragraphs designated by numbers. Paragraphs may be divided into subdivisions designated by lower case letters. Subdivisions may be divided into subdivision paragraphs designated by lower case Roman numerals. Reference to a "section", "subsection", "paragraph" or "subdivision" includes all divisions of the referenced section, subsection, paragraph or subdivision.

SECTION VI – COVERAGE

- A. No person may construct, operate, maintain, close or provide long-term care of any solid waste facility or hazardous waste facility in the Town without a permit issued by the Town Board under this ordinance.

B. The permit under this ordinance shall be considered a local approval, as defined in s.289.33 (3)(d)), WI Statutes subject to the requirements of s.289.22, WI Statutes.

C. The permit application fees shall be established annually by resolution of the Town Board. The permit shall be issued by the Town Board or its designees prior to any person commencing any form of construction, operation, maintenance, closure or long-term care of any facility or site in the Town that is subject to this ordinance.

SECTION VII – APPLICATION/PERMIT

The application for the Town permit under this ordinance shall designate the legal premises to be used by the permitted person for the proposed use, site or facility. The permit may not be amended if the person changes the premises in the Town. The permit is not transferable from one person to another. The application for the permit shall, at minimum, contain all of the following:

A. The name of the applicant and the name of any agent for the applicant.

B. The address of the applicant.

C. The address and legal description of the premises for the facility or site and the current owner of the premises.

D. The age of the applicant, if a natural person not over the age of 18 years.

E. The type and use of the facility or site to be constructed, operated, maintained, closed or provided long-term care at the premises.

F. The length of time in years for construction of the facility, if applicable.

G. All local approvals, licenses or permits necessary for the applicant to obtain for the facility prior to any construction, maintenance, operation, closure or long-term care.

H. All federal or state approvals, licenses or permits necessary for the applicant to obtain for the facility prior to construction, maintenance, operation, closure or long-term care.

I. The proposed length in years of operational time for actual disposal, treatment or storage operations at the facility.

J. The current and proposed zoning and land use plan for the facility premises, if any.

K. The projected amount, type and source of solid waste or recyclable material to be disposed, stored or treated at the facility on an annual basis.

L. The projected type, source and amount of hazardous or toxic waste to be stored, treated or disposed at the facility on an annual basis.

M. Copies of all feasibility reports and plan of operations submitted or to be submitted to the State of Wisconsin, Department of Natural Resources.

N. The financial security projected to be provided by the applicant to insure compliance with the permits as issued and with any other approvals.

O. Any public nuisance or threats to the public health or safety known by the applicant that are located at or near the proposed or current waste location.

P. Any other information regarding the construction, operation, closure or long-term care of the facility requested by the Town in the application form.

SECTION VIII – EXEMPTIONS

All of the following facilities, sites or uses in the Town are exempt from this ordinance:

- A. A facility or site under s.289.43 (5), WI Statutes used for the collection of recyclable material or for the dumping or disposal of waste, including garbage or refuse on the property where it is generated from a single family or household in the Town, a member of which is the owner, occupant or lessee of the property; provided that any such waste, garbage, refuse or recyclable material to be disposed or collected in the Town is placed in a suitable dumpster or container or is stored in another way as not to cause a public or private nuisance.
- B. The use of sanitary privies and what are commonly known as seepage beds, holding tanks or septic tanks that conform to applicable ordinances in the Town.
- C. The discharge of human waste products into any public sewerage system located within the Town or of the land spreading of human waste products on lands in the Town.
- D. A farm facility on which only animal waste, resulting from the operation of that farm is disposed at the facility.
- E. Any dumping or disposal operation, any storage, treatment, dump or disposal site or any recyclable material facility directly under the direction and control of the Town.
- F. Any existing waste facility or site operating upon the effective date of the ordinance with the current waste uses or activities at the facility or site that may or may not be subject to any preexisting Town ordinance. Any new waste, storage, disposal or treatment uses or activities after the effective date of this ordinance or any expansion of the capacity of the facility or site, after the effective date of this ordinance, shall be subject to this ordinance.
- G. Any demolition or other waste facility, including any land spreading of wood, ash or sludge site exempt under s.289.4., WI Statutes.
- H. Any alcohol fuel production system exempt under s.289.44, WI Statutes.
- I. Any fruit and vegetable waste facility exempt under s.289.445, WI Statutes.
- J. Any recyclable material collection facility approved for collection or processing operations by Columbia County, the Town or any responsible unit under s.287.09, WI Statutes.
- K. Any solid waste facility or hazardous waste facility or site that was permanently closed prior to the effective date of the ordinance.
- L. Any solid waste or recyclable material collection container or dumpster for solid waste and recyclable material disposal and collection used by the public that is provided by any federal, state, county or Town agency; provided however that any waste, garbage, refuse or recyclable material to be disposed or collected in the Town is placed in a suitable dumpster or container or is stored in another way so as not to cause a public or private nuisance.
- M. Any solid waste collection container or dumpster for solid waste and recyclable material, disposed and collected by the public provided by any person in the Town; provided however that any waste, garbage, refuse or recyclable material to be

disposed or collected in the Town is placed in a suitable dumpster or container or is stored in another way as not to cause public or private nuisance.

N. Any open container or other system used to burn nontoxic or nonhazardous material in a lawful manner and so as not to cause a public nuisance in the Town.

SECTION IX – SPECIFIC ORDINANCE AND PERMIT PROVISIONS

A. No person may be issued or reissued a permit in the Town under this ordinance until the appropriate application fee has been paid by the applicant to the Town Clerk.

B. No person may be issued or reissued a permit under this ordinance who has failed to properly and fully complete and submit to the Town Clerk complete and truthful responses on the application form developed and provided by the Town.

C. No person may be issued or reissued a permit in the Town under this ordinance, and any permit may be revoked or suspended after a public hearing by the Town Board, if the facility applicant or the permittee fails to do any of the following:

1. Obtain and maintain for a proposed or existing facility or site all necessary approvals, licenses or permits from the appropriate Town, Columbia County, State and Federal agencies.
2. Comply with all conditions and restrictions attached by the Town Board to the permit issued under this ordinance by the Town Board.
3. Timely prevent or timely limit specific public nuisances or potential threats to the public health and safety at or adjacent to the facility caused by the applicant or permittee at or near the existing site or facility upon notice of such public nuisance or threats by the Town Board

D. The Town Board may, in order to prevent public nuisances, protect the public health and protect the environment in the Town, require specific conditions or restrictions to be attached to any permit issued by the Town Board under this ordinance. These conditions or restrictions, if applicable, shall be complied with during the construction, operation, maintenance, closure and long-term care operations of the facility or site by the permittee or applicant.

SECTION X – PENALTY PROVISIONS

Any person, partnership, corporation or other legal entity that fails to comply with the provisions of this ordinance shall, upon conviction, pay a forfeiture of not less than \$50.00 nor more than \$10,000.00 plus the application surcharges, assessments and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this ordinance. In addition, the Town Board may seek an injunctive relief from a court of record to enjoin further violations.

SECTION XI – SEVERABILITY

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision of application and to this end, the provisions of this ordinance are severable.

SECTION XII – EFFECTIVE DATE

This ordinance is effective upon publication and adoption by the Town Board.

The Town Clerk shall properly publish this ordinance as required under s.60.80, WI Statutes.

Adopted this thirteenth day of November, 2008

Steven D. Rubert, Chairman

Carl T. Benck, Supervisor

Steven R. Jacob, Supervisor

William Gretzinger, Supervisor

David L. Liebenthal, Supervisor

Attest:

Linda Henning, Clerk/Treasurer