

## Chapter 8.12

### **GARBAGE DISPOSAL, DUMPING AND FILL\***

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\* Editor's note: The title of Chapter 8.12 was amended by Ord. dated 5/13/04.

#### **8.12.010 Dumping of garbage, rubbish, in the town.**

A. No person shall deposit or cause to be deposited on any public highway, navigable waterway, as that term is defined by Wisconsin Statutes, or anywhere else in the town without specific written authorization from the owner of the land upon which the materials are deposited, any garbage, offal, ashes, rubbish, refuse, junk, cinders, earth, carcasses, automobile parts, manure of any animal or vegetable waste from any source whatever.

B. No person shall do anything on their own property which would create a situation in which gravel, earth, or any other material, or which would create a situation in which an unusual accumulation of water, was caused, deposited or permitted to accumulate upon a public highway in the town.

C. For the purpose of this section, the term "refuse" has the same meaning as defined in Section 8.12.020(B).

D. Any person who shall violate any provision of this section shall, upon conviction thereof, forfeit not less than two hundred dollars (\$200.00) nor more than

five hundred dollars (\$500.00) together with the cost of prosecution, and in default of payment of such forfeiture and costs shall be imprisoned in accordance with Chapter 1.20. (Editorially amended during 2001 codification; Ord. dated 1/13/92: prior code § 11.01)

#### **8.12.020 Disposal on private property.**

A. Statement of Purpose. The town is concerned with persons dumping or allowing the dumping of solid wastes on private property within the town not specifically classified or approved by the DNR as a solid waste facility as that term is defined and used in Chapter 289 of the Wisconsin Statutes. The town board deems it necessary, for public health, safety, and welfare purposes that the town should control the quantity and type of materials that are dumped on private property within the township or allowed to be dumped on such property. Such dumping, in the past, has altered water drainage causing substantial damage to town property, caused environmental concerns, and created unsightly landfilled areas uncontrolled by state regulation. This section is not designed to conflict with any regulatory powers granted by Wisconsin Statutes or the Wisconsin Administrative Code to the Department of Natural Resources relating to solid waste facilities or other matters regulated by Chapter 289 of the Wisconsin Statutes.

##### **B. Solid Waste Disposal.**

1. Solid Waste Disposal Prohibited. No person, firm or corporation shall dispose of or permit the disposal of any solid wastes on any property within the town with the exception of solid waste facilities regulated by the Department of Natural Resources or other state agencies pursuant to Wisconsin law and Wisconsin Administrative Code. For the purposes of this section, "solid

waste” means any garbage, refuse, sludge from a waste treatment plant, and any other discarded or salvageable 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 which are point sources subject to permits under Chapter 283 Wis. Stats., or source, special nuclear or by-product material as defined under Chapter 254 Wis. Stats. The term “refuse” means combustible and non-combustible rubbish, including, but not limited to, paper, painted or treated wood, metal, glass, cloth and products thereof; litter and street rubbish, asphalt, ashes, painted and treated wood, and other debris resulting from the construction or demolition of structures. Refuse shall not include clean soil, brick, building stone, concrete, reinforced concrete, broken pavement, and unpainted or untreated wood.

2. Exceptions. The above prohibition shall not apply to or prohibit an owner of any property that is zoned A-1 within the town from disposing of trees, brush, lumber, wood products, concrete, asphalt, stone, ashes, paper and cloth products on his or her own property; provided, that such items of solid waste are generated by such owner on his or her property; and further provided, that such solid wastes are not, in any way, generated, shipped, hauled, transported or brought in from any location outside of such owners property.

3. Clean Up and Restoration. Any person, firm or corporation in violation of this section shall, upon direction of the town board, immediately cease and desist conducting such activities and shall begin immediate actions to clean up and remove any offending materials and restore the site to its original condition, with the offending person, firm or corporation being

responsible for all expenses incurred. Should any person, firm, or corporation fail to engage the necessary men and equipment to comply or to complete the requirements of this section, the town board may order the required actions to be taken by public or private resources and allow the recovery of any and all costs incurred by the town.

C. Dumping, Depositing or Disposing of Fill Prohibited Without Permit.

1. No person, firm or corporation shall dump, deposit or dispose of any fill or allow any fill to be dumped, deposited or disposed of on any property within the town of Burlington without the written permission of the town board. For the purposes of this ordinance, “fill” means any solid materials, including, but not limited to, sand, gravel, top soil, dirt, any type of soils, brick, building stone, concrete, reinforced concrete, broken pavement, wood or rocks. An exemption from the prohibition shall apply to the dumping, depositing or disposing of clean and uncontaminated sand, gravel, top soil, or dirt on any property within the town of Burlington in accordance with the following parameters:

- a. Fifty (50) cubic yards or less on property less than one acre;
- b. One hundred (100) cubic yards or less on property between one acre in size and two and one-half acres in size;
- c. Two hundred (200) cubic yards or less on property between two and one-half acres and five acres in size;
- d. Four hundred (400) cubic yards or less on property between five acres and ten (10) acres in size;
- e. Eight hundred (800) cubic yards or less on property greater than ten (10) acres in size.

The term “property” shall be established by each separate tax parcel number. The volumes of fill set forth above are total volumes of material dumped, deposited or disposed of with respect to any given

property. Therefore, this ordinance shall bind any predecessors in title with respect to any amounts previously dumped, deposited or disposed of on the property in question.

2. Any person seeking the permission of the town board to dump, deposit or dispose of any fill or allow the dumping, disposal, or depositing of fill on any property within the town, shall apply for a permit by filing an application for such permit with the town board on such form and containing such information as the town board requires. A current and accurate plat of survey, prepared by a land surveyor or engineer licensed to do business in the state of Wisconsin, shall accompany the permit application, and shall include, but not be limited to, the exterior boundaries of the property; all existing planimetric (physical) features on subject site and adjacent properties such as buildings, trees, driveways, culverts, pavement, walks, drainage ditches, power poles, utility pedestals, etc., existing and proposed elevations and existing and proposed contours on subject site and adjacent properties; locations and elevations of existing buildings on adjacent properties and any other information that may be pertinent in determining existing and proposed drainage patterns. The requestor shall also be responsible for obtaining any other applicable permits, including but not limited to, those required by the DNR and Racine County. The town, upon request, may waive the survey requirement based on the particular circumstances of the request. The permit applicant shall be responsible for all reasonable costs related to such permit, including, but not limited to, engineering fees, administrative costs, attorney's fees, and such other costs as may be incurred by the town in acting on such permit.

3. Fees and deposits shall be set by resolution, in addition to the town's costs as set forth in subsection (C)(2) of this section. (Ord. dated 5/24/07)

4. Any person desiring to place fill on their property which exceeds the amounts set forth herein, may make application to the town board for the same, under the terms of subsection B set forth in this section. The town may withhold approval if it determines that fill in addition to the limitations set forth in this section would redirect the natural flow of water, would affect neighboring property owners adversely, would have a negative aesthetic impact, would have a negative public health or welfare impact, or any other reason consistent with the general purposes of this section.

5. All fill projects shall be completed within ninety (90) days of granting of the permit, unless an extension is granted by the board. Completion shall entail placement, grading, landscaping, restoration and any other step as may be required according to the approval conditions. An extension may be granted at the time of granting the permit or later, based on a showing of good cause as to why the project cannot be completed within ninety (90) days. Any person requesting an extension shall make application to the board prior to expiration of the existing permit, or a new permit, approval and fee shall be required. Failure to complete the project in timely fashion shall be deemed a violation of this section.

6. Upon completion of any fill project, the property owner shall report the total amount of cubic yards placed on the property. The town clerk shall keep a record of all fill amounts placed on a given property, so that the lifetime, cumulative, maximum limits can be applied. The lifetime maximum does not prohibit additional fill, it only establishes when a permit must first be issued. These records shall be public records, open to inspection so that subsequent owners of real estate can be apprised of any remaining limits.

7. This ordinance is adopted by the town board of the town of Burlington for the purpose of protecting the health and safety of the citizens of the town and in the interest of providing adequate, safe, and effective drainage of water within the town of Burlington, preventing unsightly deposit of materials on property in the town, protection against soil contamination and protection against altering or destroying natural drainage patterns.

8. If any person, firm or corporation is found to be in violation of this section, the town may take any steps necessary to remedy the situation, including entry upon land of the person to remove the offending fill amounts. Such persons shall be liable to the town of Burlington for any expense incurred by the town or loss or damage sustained by the town by reason of such violation including, but not limited to, attorney's fees, engineer's fees, administrative costs, and such other fees incurred by the town by reason of violation or enforcement of this ordinance.

9. Any person, firm or corporation in violation of this section of the ordinance shall forfeit to the town of Burlington upon conviction thereof an amount not to exceed five hundred dollars (\$500.00) plus the costs of prosecution and, in default of payment thereof, imprisonment in the county jail for ten (10) days. Each day of violation shall constitute a separate offense.

D. Enforcement. Unless the town has designated another representative, the town building inspector shall be responsible for enforcement of this chapter. Such person shall have the right to reasonably enter upon land, with advance notice, to inspect any potential violations. If a violation is discovered, he/she shall notify the owner, agent or occupant of the property causing or allowing such violation of this section by written notice of inspection. Such persons shall include in such notification the specific

condition or conditions found which amounts to a violation, the correction necessary to cure any such violation in a specific and reasonable time to bring about compliance with this section. Each such condition amounting to a violation of this section shall be treated as a separate and distinct violation. In the event that the owner, agent or occupant of such private property fails to correct any such violation within twenty-four (24) hours after the time allowed for bringing about compliance, the town board, upon written referral of such enforcement person, shall contract to bring about compliance at the expense of the owner of such property.

E. Civil Liability. Any person, firm or corporation in violation of this section shall be liable to the town for any expenses incurred by the town or loss or damage sustained by the town by reason of such violation including, but not limited to, attorney's fees, engineer's fees, administrative costs, and such other fees incurred by the town by reason of the violation or enforcement of this section.

F. Penalties. Any person, firm or corporation in violation of this section shall forfeit to the town upon conviction thereof, not to exceed two hundred dollars (\$200.00) plus the costs of prosecution in default of payment thereof, imprisonment in the county jail for ten (10) days. Each day of violation shall constitute a separate offense. (Ord. dated 9/9/04; Ord. dated 5/13/04; editorially amended during 2001 codification; Ord. dated 6/13/96; prior code § 9.23)

#### **8.12.030 Town landfill site.**

A. The town landfill site shall be operated under such rules and regulations as the town board shall from time to time establish.

B. The town landfill site shall be used only by full-time or summer residents of the

town. Summer residents may use the site only while they are in residence within the town.

C. Fees for use of the landfill site shall be set by resolution of the town board.

D. No refuse shall be accepted unless all of the total material contained therein, as determined by volume, shall be originated within the town. Any owner or operator of a vehicle violating this provision may be prohibited from using the town landfill for a period of thirty (30) days or such shorter period of time as the town board may prescribe.

E. No owner or operator of a vehicle shall dump upon the town landfill site any refuse which shall have originated outside of the town.

F. No person shall loiter in the town landfill site or pick or remove any refuse from the town landfill site.

G. No refuse shall be accepted unless there is attached to the vehicle a current sticker issued by the town. (Editorially amended during 2001 codification; Ord. dated 9/27/88; Ord. dated 7/18/88; prior code § 11.03)

#### **8.12.040 Violation--Penalty.**

Any person found to be in violation of any provision of this chapter shall be subject to a penalty as provided in Chapter 1.20 of this code. (Prior code § 11.05)

#### **8.12.050 Garbage/recycling collection fees.**

The town shall, by resolution, establish an annual fee for garbage and recycling collection in the town. The fee to be established shall be per residential unit, as determined by the uniform numbering system. That is, each uniform number on which a habitable residence is situated, shall be assessed one annual fee. (Ord. dated 11/14/02)