

TOWN OF KINNICKINNIC

ORDINANCE RELATING TO THE SITING AND TYPE OF WASTE MANAGEMENT FACILITIES PERMITTED IN THE TOWNSHIP, THEIR OPERATION, PERMITTING, AND THE RESPONSIBILITIES OF THE OWNERS/OPERATORS.

SECTION I. PURPOSE

The purpose of this ordinance is to regulate and control the management of wastes through constructed waste facilities within the Township so as to protect the health, safety and welfare of the public.

SECTION II. DEFINITIONS

1. DISPOSAL includes, but is not limited to, discharging, storing, burying, incinerating, chemically treating, biologically treating, unloading, throwing away, discarding, emptying, abandoning, or burning waste, garbage, refuse or sludge on, into or under any property or lands, whether publicly or privately owned, within the Town of Kinnickinnic.
2. WASTE FACILITY includes, but is not limited to, landfills, incinerators, chemical treatment plants, biological treatment plans, intermediate storage areas, and compaction plants.
3. WASTE is all refuse, garbage and all other discarded or salvageable material, including waste materials from industrial, commercial and agricultural operations, excepting only animal wastes resulting from operation of a farm, and from domestic use and public service activities.
4. REFUSE is combustible and non-combustible discarded material including, but not limited to, trash, rubbish, paper, wood, metal, glass, plastic, rubber, cloth, ashes, litter and street rubbish, all industrial wastes, hospital wastes, dead animals, mine tailings, gravel pit and quarry spoils, toxic and hazardous wastes, and material and debris resulting from construction or demolition.
5. WATER includes, but is not limited to, water from deep aquifers, springs, wells, and surface waters used by farm animals and wildlife and for the growing of edible plants.
6. COUNTY shall mean St. Croix County, Wisconsin.
7. MUNICIPALITY shall mean any city, village or town.

SECTION III. PERMIT REQUIRED

Except as expressly permitted in Section IV below, no individual, corporation, municipality or county shall dispose of any waste or refuse or operate any constructed waste facility within the Town of Kinnickinnic unless a permit to engage in said disposal or operation is first obtained from the Town of Kinnickinnic under the conditions or restrictions prescribed herein.

SECTION IV. EXCEPTIONS

The following shall not be deemed to come within the scope or meaning of this ordinance:

1. Sites used for the composting or temporary storage 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 to not cause a public or private nuisance.

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

3. A farm on which only animal wastes resulting from the operation of the farm are disposed of.

SECTION V. GENERAL DIRECTIVES, REGULATIONS AND REQUIREMENTS

1. There shall be no more than one waste facility of any kind permitted in the Town of Kinnickinnic.

2. If the waste facility is a landfill, it shall be built of the most modern double-lined construction, as described in EPA PB86-184-496, March, 1986, or any subsequent revisions, recreations or updates thereof.

3. If the waste facility is a landfill, only incinerated waste or otherwise processed and equivalently detoxified waste may be deposited therein. Such incinerated waste or ash is subject to limitations in (4) below.

4. No incinerated material or ash shall be put in the landfill if it contains any radioactive, heavy metal, or other residual toxic materials as defined by the DNR of Wisconsin or EPA of the United States.

5. No waste facility shall receive deposits generated or collected from anywhere other than St. Croix County.

6. Before any waste facility for the benefit of St. Croix County or any part thereof is permitted to be constructed in Kinnickinnic Township, the County shall have in operation mandatory recycling, composting and other practices as part of a comprehensive waste management program so as to minimize the volume of waste and refuse to be disposed of.

7. If the facility is a landfill, it shall, at a minimum, be sited and operated in accordance and compliance with prescriptions, codes, laws and operating procedures of the State of Wisconsin and the United States and, additionally, within the requirements of this ordinance specifically, a landfill may only be of the double clay-lined type where the separation distance between the seasonal high ground water table and the bottom of the lower clay liner shall be at least 10 feet. No landfill may be built where any part of its base lies beneath the ground water table.

8. If the facility is an incinerator, it shall be of the most modern design and

shall be equipped to include, but not limited to, emission controls, filtration devices and scrubbers to maintain air quality standards.

9. If the facility is an incinerator, it shall be sited in accordance with codes, laws and operating procedures of the State of Wisconsin and the United States and shall be located no closer than 2000 feet from any existing dwelling.

10. The Township of Kinnickinnic shall be given a complete site plan, facility plan, operating procedures, environmental impact statement and monitoring plan prior to any action toward permitting use or operation of the facility. Such plans, procedures and statements are subject to approval by the Township.

11. Operations of the waste facility shall be in strict accordance with the approved plans, procedures and statements, and no changes in the facility or its operations shall be made without prior approval by the Township of Kinnickinnic.

12. If the waste facility is a landfill owned and/or operated by the County or its agents or by a private firm, said operator/owner shall provide funds to the Township of Kinnickinnic to pay for the training and continuing employment of a township employee trained in waste management, who will continuously monitor the waste facility and its operation, and will review all records of the facility, state inspections, and other pertinent data as they occur.

13. In the event that elevated concentrations of toxic materials occur in monitored sites, the Township of Kinnickinnic shall have the right to close the facility until the level of contaminants is reduced to levels below the standards set by State of Wisconsin DNR and/or EPA.

14. At least two years prior to the initiation of operations of a landfill facility, regular groundwater monitoring shall be initiated and conducted by the State Hygiene Laboratory. The purpose of such monitoring will be to provide a base for future monitoring. This monitoring shall be done in an area bounded by a circle three miles radius from the facility site. After initiation of operations, the owner/operator of the landfill will conduct monthly groundwater monitoring and will immediately provide the results of such monitoring to the Township waste management employee.

15. At least two years prior to the initiation of operations of an incinerator, regular air quality monitoring shall be initiated by a qualified State Laboratory in order to provide a base for future monitoring. This monitoring shall be done in an area bounded by a circle five miles radius from the proposed site. After initiation of operation, the owner/operator of the landfill will conduct monthly air quality monitoring and will immediately provide the results of such monitoring to the Township waste management employee.

16. If at any time during or after the operation of the waste facility concentrations of contaminants are found elevated beyond State and National health safety standards for water or air, affected residents of the Town of Kinnickinnic shall have the option to have medical examinations and treatment. All such medical examinations and treatments shall be at the expense of the County or other owner/operators of the facility.

17. The County or owner/operators shall be liable for providing adversely affected residents of the Township the means for obtaining clean, safe drinking water. This

will include, but is not limited to, funds for redrilling wells, providing temporary bottled drinking water, connecting to a safe municipal water supply, and the like.

18. The County or owner/operators of the waste facility shall be responsible for all expenses relating to the installation and maintenance of the facility, including, but not limited to, road improvements and site preparation.

19. Any damage caused to the environment or surrounding property by the existence or operation of the facility shall be repaired by the county or owner/operator of the facility.

20. The County or owner/operator shall guarantee in writing to protect property and agricultural land values that may be adversely affected by the presence of the facility or by nuisance, noise, traffic or contamination resulting from the facility. Such protection shall obtain to a radius of five miles from the facility site or to the borders of the Township, and shall be enforceable by any adversely affected property owner within the borders of the Township.

SECTION VI. APPLICATION

There shall be public hearings on any proposal to develop and operate a waste facility. At least one such hearing shall include the general proposal and rationale for siting a constructed waste management facility within the Township. At least one such hearing shall include presentation of the site plan, facility plan, operating procedures, environmental impact statement and monitoring plans. Applications related thereto shall be on file with the Town clerk at least 45 days prior to the public hearing.

SECTION VII.

Public hearings will be required under the following terms:

A. Notice shall be given as a Class 3 notice as described in Wisconsin Statute 985.07.

B. The cost of publication of such notices shall be deposited by the applicant in advance.

C. Public hearings shall be held on the date specified in the notices or any adjourned date; however, such public hearings shall be merely advisory in regard to affecting any action which may be taken by Town Board upon such application.

SECTION VIII. 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 ordinance shall be observed and that the waste facility and management plan will be carried out as described, and any financial obligations accruing thereto shall be paid; if economic loss occurs to any one or several of the residents of the Township, that loss shall be paid; if there is a violation of the ordinance or if the waste facility fails to perform within the Town approved plans, procedures and environmental impact limits, the Town Board shall have the right to revoke the waste

facility operating permit and, if necessary, obtain a court order terminating such operation; if after a reasonable demand the owner of the waste facility does not restore the facility, operations and polluted surrounds in accordance with the approved plans, procedures and environmental impact limits, the Town Board shall have the right to correct the violation and to charge the expense against the bond.

SECTION IX. ISSUANCE

The application for a permit shall be processed within 120 days of the receipt thereof, and shall be issued if the Town Board is satisfied that there has been and will be reasonable compliance with the conditions enumerated herein.

SECTION X. REVOCATION

The permit once issued may be revoked after public hearing upon a published Class I Notice by the Town of Kinnickinnic at any time if any of the conditions necessary for the issuance thereof, or any terms of the ordinance, are violated.

SECTION XI. EXEMPTIONS

Nothing contained herein shall be deemed to limit or restrict a landowner from burning on his or her own property within the township, within 50-gallon metal barrels, rubbish produced on the landowner's own property. Further, nothing contained herein shall be deemed to restrict landowners, upon first receiving a burning permit from the town chairman, from burning brush or other items that are not contained within a 50-gallon metal barrel.

SECTION XII. 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 XIII. 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 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 XIV. 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 thereof.

SECTION XV. CONSTRUCTION

This ordinance shall be liberally construed so as to protect the health, safety and welfare of the public.

SECTION XVI. EFFECTIVE DATE

In accordance with Wisconsin Statute 61.50(1), this ordinance shall take effect the day after proof of posting has been filed and recorded with the Town Clerk.

IN WITNESS WHEREOF, the undersigned Chairman and Clerk of the Town Board have set their hands and seals this 7 day of March, 1989.

Donald E. Larson
Chairman

Nellie Fritcher
Clerk