

TITLE 8

Health and Sanitation

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Health and Sanitation

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Sec. 8-1-1 Rules and Regulations.

The Common Council may make reasonable and general rules for the enforcement of the provisions of this Chapter and for the prevention of the creation of health nuisances and the protection of the public health and welfare and may, where appropriate, require the issuance of licenses and permits.

Sec. 8-1-2 Health Nuisances; Abatement of.

- (a) **Defined.** A health nuisance is any source of filth or cause of sickness.
- (b) **Duty to Abate.** The Common Council shall abate health nuisances pursuant to Ch. 823, Wis. Stats., which is adopted by reference and made a part of this Section.
- (c) **Communicable Diseases.** Chapter 823, Wis. Stats., and Ch. H 45, Wis. Adm. Code, are adopted by reference and made a part of this Chapter, and it shall be the duty of the Common Council to enforce the provisions thereof.

State Law Reference: Ch. 823, Wis. Stats.

Sec. 8-1-3 Keeping of Livestock.

- (a) **Sanitary Requirements.** All structures, pens, buildings, stables, coops or yards wherein animals or fowl are kept shall be maintained in a clean and sanitary condition, free of rodents, vermin and objectionable odors, and shall only be kept in properly zoned areas.
- (b) **Animals Excluded From Food Handling Establishments.** No person shall take or permit to remain any dog, cat or other live animal on or upon any premises where food is sold, offered for sale or processed for consumption by the general public.

Sec. 8-1-4 Deposit of Deleterious Substances Prohibited.

No person shall deposit or cause to be deposited in any public street or on any public ground or on any private property not his/her own any refuse, garbage, litter, waste material or liquid or any other objectionable material or liquid. When any such material is placed on the person's own private property, it shall be properly enclosed and covered so as to prevent the same from becoming a public nuisance. No person shall dispose of any unauthorized substances through a manhole.

Sec. 8-1-5 Destruction of Noxious Weeds.

- (a) The City Clerk shall annually on or before May 15th and July 31st publish as required by state law a notice that every person is required by law to destroy all noxious weeds on lands in the City which he/she owns, occupies or controls. A joint notice with other towns or municipalities may be utilized.
- (b) If the owner or occupant shall neglect to destroy any weeds as required by such notice, then the Weed Commissioner of the City shall give five (5) days' written notice by mail to the owner or occupant of any lands upon which the weeds shall be growing to the effect that the said Weed Commissioner after the expiration of the five (5) day period will proceed to destroy or cause to be destroyed all such weeds growing upon said lands and that the cost thereof will be assessed as a tax upon the lands upon which such weeds are located under the provisions of Sec. 66.0407 of the Wisconsin Statutes. In case the owner or occupant shall further neglect to comply within such five (5) day notice, then the Weed Commissioner shall destroy such weeds or cause them to be destroyed in the manner deemed to be the most economical method and the expense thereof, including the cost of billing and other necessary administrative expenses, shall be charged against such lots and be collected as a special tax thereon.
- (c) As provided for in Sec. 66.0407, Wis. Stats., the City shall require that all noxious weeds shall be destroyed prior to the time in which such plants would mature to the bloom or

flower state. The growth of noxious weeds in excess of eight (8) inches in height from the ground surface shall be prohibited within the City corporate limits. Noxious weeds shall include any weed, grass or similar plant growth which, if allowed to pollinate, would cause or produce hayfever in human beings or would cause a skin rash through contact with the skin. Noxious weeds, as defined in this Section and in Section 8-1-7, shall include but not be limited to the following weeds and those designated as noxious weeds in the Wisconsin Statutes:

Cirsium Arvense (Canada Thistle)
Ambrosia artemisiifolia (Common Ragweed)
Ambrosia trifida (Great Ragweed)
Euphorbia esula (Leafy Spurge)
Convolvulus arvensis (Creeping Jenny) (Field Bind Weed)
Tragopogon dubius (Goat's Beard)
Rhus radicans (Poison Ivy)
Cirsium vulgaries (Bull Thistle)
Pastinaca sativa (Wild Parsnip)
Arctium minus (Burdock)
Xanthium strumarium (Cocklebur)
Amaranthus retroflexus (Pigweed)
Chenopodium album (Common Lambsquarter)
Rumex Crispus (Curled Dock)
Cannabis sativa (Hemp)
Plantago lanceolata (English Plantain)

Noxious grasses, as defined in this Section and in Section 8-1-7, shall include but not be limited to the following:

Agrostia alba (Redtop)
Dactylis glomerata (Orchard)
Phleum pratensis (Timothy)
Poa pratensis (Kentucky Blue)
Sorghum halepense (Johnson)
Setaria (Foxtail)

Noxious weeds are also the following plants and other rank growth:

Ragweed
Thistles
Smartweed
Dandelions (over 10 inches in height)
Milkweed (over 10 inches in height)

State Law Reference: Sec. 66.0407, Wis. Stats.

Sec. 8-1-6 Regulation of Natural Lawns.

- (a) **Natural Lawns Defined.** Natural lawn as used in this Section shall include common species of grass and wild flowers native to North America which are designed and purposely cultivated to exceed eight (8) inches in height from the ground. Specifically excluded in natural lawns are the noxious grasses and weeds identified in Section 8-1-5 of this Chapter. The growth of a natural lawn in excess of eight (8) inches in height from the ground surface shall be prohibited within the City corporate limits unless a Natural Lawn Management Plan is approved and a permit is issued by the City as set forth in this Section. Natural lawns shall not contain litter or debris and shall not harbor undesirable wildlife.
- (b) **Natural Lawn Management Plan Defined.**
- (1) Natural Lawn Management Plan as used in this Section shall mean a written plan relating to the management and maintenance of a lawn which contains a legal description of lawn upon which the planted grass will exceed eight (8) inches in length, a statement of intent and purpose for the lawn, a detailed description of the vegetational types, plants and plant succession involved, and the specific management and maintenance techniques to be employed.
 - (2) Property owners who wish to plant and cultivate a natural lawn must submit their written plan and related information on the form provided by the City. "Property Owner" shall be defined to include the legal title holder and/or the beneficial owner of any such lot according to most current City records. Natural Lawn Management Plans shall only indicate the planting and cultivating of natural lawns on property legally owned by the property owner. Applicants are strictly prohibited from developing a natural lawn on any City-owned property including street rights-of-way. This shall include at a minimum property located between the sidewalk and the street or a strip not less than ten (10) feet adjacent to the street where there is no sidewalk whether the area is under public or private ownership. In addition, natural lawns shall not be permitted within ten (10) feet of the abutting property owner's property unless waived in writing by the abutting property owner on the side so affected. Such waiver is to be affixed to the Lawn Management Plan.
 - (3) Any subsequent property owner who abuts an approved natural lawn may revoke the waiver thereby requiring the owner of the natural lawn to remove the natural lawn that is located in the ten (10) foot section abutting the neighboring property owner. Such revocation shall be put in writing and presented to the City Clerk by the subsequent abutting property owner. Upon receiving the written request to revoke the original waiver, the Common Council shall contact the owner of the approved natural lawn and direct the owner to remove the natural lawn located in the ten (10) foot section abutting the neighboring property owner. The Common Council shall revise the approved Natural Lawn Management Permit accordingly. The owner of the approved natural lawn shall be required to remove the ten (10) foot section abutting

the neighboring property owner within twenty (20) days of receipt of the written notification from the City provided the notification is received sometime between May 1 and November 1. Property owners who receive notification from the City between November 1 and April 30 shall be required to remove the ten (10) foot section abutting the neighboring property owner no later than May 20 following receipt of the notification.

(c) **Application Process.**

- (1) Property owners interested in applying for permission to establish a natural lawn shall obtain and complete an application form available from the City Clerk. The completed application shall include a Natural Lawn Management Plan. Upon submitting a completed application, a Twenty-five Dollar (\$25.00) non-refundable filing fee will be assessed by the City. Upon receiving payment, copies of the completed application shall be mailed by the City to each of the owners of record, as listed in the Office of the City Assessor, who are owners of the property situated wholly or in part within three hundred (300) feet of the boundaries of the properties for which the application is made. If within fifteen (15) calendar days of mailing the copies of the complete application to the neighboring property owners the City receives written objections from fifty-one percent (51%) or more of the neighboring property owners, the City Clerk shall immediately deny the application. Neighboring property owners shall be defined as all those property owners who are located within three hundred (300) feet of the proposed natural lawn site.
- (2) If the property owner's application is in full compliance with the Natural Lawn Management Plan requirements and less than fifty-one percent (51%) of the neighboring property owners provide written objections, the City Clerk shall issue permission to install a natural lawn.

- (d) **Application For Appeal.** The property owner may appeal the Clerk's decision to deny the natural lawn permit request to the Common Council at an open meeting. All applications for appeal shall be submitted within fifteen (15) calendar days of the notice of denial of the Natural Lawn Management Plan. The decision rendered by the Common Council shall be final and binding.

(e) **Safety Precautions For Natural Grass Areas.**

- (1) When, in the opinion of the Fire Chief, the presence of a natural lawn may constitute a fire or safety hazard due to weather and/or other conditions, the Fire Chief may order the cutting of natural lawns to a safe condition. As a condition of receiving approval of the natural lawn permit, the property owner shall be required to cut the natural lawn within the three (3) days upon receiving written direction from the Fire Chief.
- (2) Natural lawns shall not be removed through the process of burning unless stated and approved as one of the management and maintenance techniques in the Lawn Management Plan. The Fire Chief shall review all requests to burn natural lawns and

shall determine if circumstances are correct and all applicable requirements have been fulfilled to insure public safety. Burning of natural lawns shall be strictly prohibited unless a written permit to burn is issued by the Fire Chief. The Fire Chief shall establish a written list of requirements for considering each request to burn natural lawns, thereby insuring the public safety. In addition, the property owner requesting permission to burn the natural lawn shall produce evidence of property damage and liability insurance identifying the City as a party insured. The minimum amount of acceptable insurance shall be as prescribed by the City's Schedule of Insurance Requirements.

- (f) **Revocation Of An Approved Natural Lawn Management Plan Permit.** The Common Council, upon the recommendation of the Weed Commissioner, shall have the authority to revoke an approved Natural Lawn Management Plan Permit if the owner fails to maintain the natural lawn or comply with the provisions set forth in this Section. Notice of intent to revoke an approved Natural Lawn Management Plan Permit shall be appealable to the Common Council. All applications for appeal shall be submitted within fifteen (15) calendar days of receipt of the written Notice of Intent to revoke the approved Natural Lawn Management Plan. Failure to file an application for appeal within the fifteen (15) calendar days shall result in the revoking of the Natural Lawn Management Plan Permit. All written applications for appeal filed within the fifteen (15) calendar day requirement shall be reviewed by the Common Council in an open meeting. The decision rendered by the Common Council shall be final and binding.
- (g) **Public Nuisance Defined – Abatement After Notice.**
 - (1) The growth of a natural lawn as defined in this Section shall be considered a public nuisance unless a Natural Lawn Management Plan has been filed and approved and a permit is issued by the City as set forth in this Section. Violators shall be served with a notice of public nuisance by certified mail to the last-known mailing address of the property owner.
 - (2) If the person so served with a notice of public nuisance violation does not abate the nuisance within ten (10) days, the Common Council may proceed to abate such nuisance, keeping an account of the expense of the abatement, and such expense shall be charged to and paid by such property owner. Notice of the bill for abatement of the public nuisance shall be mailed to the owner of the premises and shall be payable within ten (10) calendar days from receipt thereof. Within sixty (60) days after such costs and expenses are incurred and remain unpaid, the City Clerk shall enter those charges onto the tax roll as a special tax as provided by State statute.
 - (3) The failure of the City Clerk to record such claim or to mail such notice or the failure of the owner to receive such notice shall not affect the right to place the City expense on the tax rolls for unpaid bills for abating the public nuisance as provided for in this Section.
- (h) **Penalty.**
 - (1) Any person, firm or corporation which does not abate the nuisance within the required time period or who otherwise violates the provisions of this Section shall be subject to the general penalty found in Section 1-1-7.

- (2) In addition to any penalties herein provided, the City may issue stop work orders upon owners of lots where work is unfinished under a previously issued building permit for any violation of this Section.

Sec. 8-1-7 Regulation of Length of Lawn and Grasses.

- (a) **Purpose.** This Section is adopted due to the unique nature of the problems associated with lawns, grasses and noxious weeds being allowed to grow to excessive length in the City of Washburn.
- (b) **Public Nuisance Declared.** The Common Council finds that lawns, grasses and noxious weeds on lots or parcels of land, primarily non-agricultural, which exceed eight (8) inches in length adversely affect the public health and safety of the public in that they tend to emit pollen and other discomfoting bits of plants, constitute a fire hazard and a safety hazard in that debris can be hidden in the grass, interferes with the public convenience and adversely affects property values of other land within the City. For that reason, any lawn, grass or weed on a lot or other parcel of land, primarily non-agricultural, which exceeds eight (8) inches in length is hereby declared to be a public nuisance, except for property located in a designated floodplain area, drainageway and/or wetland area or where the lawn, grass or weed is part of a natural lawn approved pursuant to Section 8-1-6 above.
- (c) **Nuisances Prohibited.** No person, firm or corporation shall permit any public nuisance as defined in Subsection (b) above to remain on any premises owned or controlled by him/her within the City.
- (d) **Inspection.** The Weed Commissioner or his/her designee shall inspect or cause to be inspected all premises and places within the City to determine whether any public nuisance as defined in Subsection (b) above exists.
- (e) **Abatement of Nuisance.**
- (1) If the Weed Commissioner shall determine with reasonable certainty that any public nuisance as defined in Subsection (b) above exists, he/she shall immediately cause written notice to be served that the City proposes to have the lot grass or lawn cut so as to conform with this Section and Section 8-1-5.
 - (2) The notice shall be served at least seven (7) days prior to the date of the City's date of action to have the grass or lawn cut and shall be mailed or served on the owner of the lot or parcel of land or, if he/she is not known and there is a tenant occupying the property, then to the tenant, of the time and place at which the hearing will be held.
- (f) **Due Process Hearing.** If the owner believes that his/her grasses or weeds are not a nuisance, he/she may request a hearing before the Common Council. The request for said hearing must be made in writing to the City Clerk's office within the seven (7) days set forth in the Weed Commissioner's notice. Upon application for the hearing, the property owner must deposit a \$25.00 bond. If a decision is rendered in the property owner's favor,

the \$25.00 will be returned to the property owner. If the property owner fails to appear for the hearing or if the decision is rendered against the property owner, the deposit shall be forfeited and applied to the cost of City personnel abating the nuisance, if necessary. When a hearing is requested by the owner of the property, a hearing by the Common Council shall be held within seven (7) days from the date of the owner's request. The property in question will not be mowed by the City until such time as the hearing is held by the Council. At the hearing, the owner may appear in person or by his/her attorney, may present witnesses in his/her own behalf and may cross-examine witnesses presented by the City as well as subpoena witnesses for his/her own case. At the close of the hearing, the Common Council shall make its determination in writing specifying its findings, facts, and conclusions. If the Common Council determines that a public nuisance did exist, the Council shall order the Weed Commissioner to mow the property in question unless the property has been mowed by the owner within forty-eight (48) hours of the Common Council's decision. If the owner does not abate the nuisance within the described forty-eight (48) hours, the Weed Commissioner shall cause the same nuisance to be abated and cost in excess of the forfeited fee assessed accordingly.

- (g) **City's Option To Abate Nuisance.** In any case where the owner, occupant or person in charge of the property shall fail to cut his/her lawn, grass or weeds as set forth above, then, and in that event, the City may elect to cut said lawn, grass or weeds as follows:
- (1) The written notice required in Subsection (e) shall inform said person that in the event of his/her failure to abate the nuisance within the prescribed time, the City shall abate the same and the cost thereof shall be assessed to the property owner as a special charge.
 - (2) The City shall cut or cause to be cut all grass and weeds from the subject's property and shall charge the expenses of so doing at a rate as established by resolution by the Common Council. The charges shall be set forth in a statement to the City Clerk who, in turn, shall mail the same to the owner, occupant or person in charge of the subject premises. If said statement is not paid in full within thirty (30) days thereafter, the City Clerk shall enter the charges in the tax roll as a special tax against said lot or parcel of land, and the same shall be collected in all respects like other taxes upon real estate, or as provided under Sec. 66.0627, Wis. Stats.

Sec. 8-1-8 Regulation of Smoking.

- (a) **Definitions.** In this Section:
- (1) **Assisted Living Facility.** A community-based residential facility, as defined in Sec. 50.01(1g), Wis. Stats., a residential care apartment complex, as defined in Sec. 50.01(1d), Wis. Stats., or an adult family home, as defined in Sec. 50.01(1)(b), Wis. Stats.

- (2) **Correctional Facility.** Means any of the following:
- a. **State Prison.** As defined or named in Sec. 302.01, Wis. Stats., except a correctional institution under Sec. 301.046(1) or 301.048(4)(b), Wis. Stats., if the institution is the prisoner's place of residence and no one is employed there to ensure the prisoner's incarceration.
 - b. **Juvenile Detention Facility.** As defined in Sec. 938.02(10r), Wis. Stats., or a juvenile correctional facility, as defined in Sec. 938.02(10p), Wis. Stats., except a juvenile correctional facility authorized under Secs. 938.533(3)(b), 938.538(4)(b), or 938.539.(5), Wis. Stats., if the facility is a private residence in which the juvenile is placed and no one is employed there to ensure that the juvenile remains in custody.
 - c. **Jail.** As defined in Sec. 165.85(2)(bg), Wis. Stats., a Huber facility under Sec. 303.09, Wis. Stats., a work camp under Sec. 303.10, Wis. Stats., a reforestation camp under Sec. 303.07, Wis. Stats., or a lockup facility under Sec. 302.30, Wis. Stats.
- (3) **Child Care Center.** Has the meaning given in Sec. 49.136(1)(d), Wis. Stats.
- (4) **Educational Facility.** Any building used principally for educational purposes in which a school is located or a course of instruction or training program is offered that has been approved or licensed by a state agency or board.
- (5) **Employment.** Notwithstanding Sec. 101.01(5), Wis. Stats., means any trade, occupation, or process of manufacture or any method of carrying on such trade, occupation, or process of manufacture in which any person may be engaged.
- (6) **Enclosed Place.** A structure or area that has all of the following:
- a. A roof.
 - b. More than two (2) substantial walls.
- (7) **Inpatient Health Care Facility.** A hospital, as defined in Sec. 50.33(2), Wis. Stats., a county home established under Sec. 49.70, Wis. Stats., a county infirmary established under Sec. 49.72, Wis. Stats., a nursing home, as defined in Sec. 50.01(3), Wis. Stats., a hospice, as defined in Sec. 50.90(1), Wis. Stats., a Wisconsin veterans home under Sec. 45.50, Wis. Stats., or a treatment facility.
- (8) **Lodging Establishment.** Any of the following:
- a. A bed and breakfast establishment, as defined in Sec. 254.61(1), Wis. Stats.
 - b. A hotel, as defined in Sec. 254.61(3), Wis. Stats.
 - c. A tourist rooming house, as defined in Sec. 254.61(6), Wis. Stats.
- (9) **Person in Charge.** The person, or his/her agent, who ultimately controls, governs or directs the activities aboard a public conveyance or at a location where smoking is prohibited or regulated under this Section.
- (10) **Place of Employment.** Notwithstanding Sec. 101.01(11), Wis. Stats., means any enclosed place that employees normally frequent during the course of employment, including an office, a work area, an elevator, an employee lounge, a restroom, a conference room, a meeting room, a classroom, a hallway, a stairway, a lobby, a common area, a vehicle, or an employee cafeteria.

- (11) **Private Club.** A facility used by an organization that limits its membership and is organized for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose.
- (12) **Public Conveyance.** A mass transit vehicle as defined in Sec. 340.01(28m), Wis. Stats., a school bus as defined in Sec. 340.01(56), Wis. Stats., or any other device by which persons are transported, for hire, on a highway or by rail, water, air, or guidewire within the State of Wisconsin, but does not include such a device while providing transportation in interstate commerce.
- (13) **Public Place.** Any enclosed place that is open to the public, regardless of whether a fee is charged or a place to which the public has lawful access or may be invited.
- (14) **Restaurant.** An establishment as defined in Sec. 254.61(5), Wis. Stats.
- (15) **Retail Establishment.** Any store or shop in which retail sales is the principal business conducted.
- (16) **Retail Tobacco Store.** A retail establishment that does not have a "Class B" intoxicating liquor license or a Class "B" fermented malt beverages license and that generates seventy-five percent (75%) or more of its gross annual income from the retail sale of tobacco products and accessories.
- (17) **Smoking.** Burning or holding, or inhaling or exhaling smoke from, any of the following items containing tobacco:
 - a. A lighted cigar.
 - b. A lighted cigarette.
 - c. A lighted pipe.
 - d. Any other lighted smoking equipment.
- (18) **Sports Arena.** Any stadium, pavilion, gymnasium, swimming pool, skating rink, bowling center, or other building where spectator sporting events are held.
- (19) **State Institution.** A mental health institute, as defined in Sec. 51.01(12), Wis. Stats., a center for the developmentally disabled, as defined in Sec. 51.01(3), Wis. Stats., or a secure mental health facility at which persons are committed under Sec. 980.06, Wis. Stats..
- (20) **Substantial Wall.** A wall with an opening that may be used to allow air in from the outside that is less than twenty-five percent (25%) of the wall's surface area.
- (21) **Tavern.** An establishment, other than a restaurant, that holds a "Class B" intoxicating liquor license or Class "B" fermented malt beverages license.
- (22) **Tobacco Bar.** A tavern that generates fifteen percent (15%) or more of its annual gross income from the sale on the tavern premises, other than from a vending machine, of cigars and tobacco for pipes.
- (23) **Tobacco Product.** Any form of tobacco prepared in a manner suitable for smoking but not including a cigarette.
- (24) **Treatment Facility.** A publicly or privately operated inpatient facility that provides treatment of alcoholic, drug dependent, mentally ill, or developmentally disabled persons.

- (25) **Type 1 Juvenile Correctional Facility.** Has the meaning given in Sec. 938.02(19), Wis. Stats.
- (b) **Prohibition Against Smoking.**
- (1) **Smoking Prohibited Enclosed Areas.** Except as provided in Subsection (d), no person may smoke in any of the following enclosed places:
- Residence halls or dormitories owned or operated by a college or university.
 - Child care centers.
 - Educational facilities.
 - Inpatient health care facilities.
 - Theaters.
 - Correctional facilities.
 - State institutions.
 - Restaurants.
 - Taverns.
 - Private clubs.
 - Retail establishments.
 - Common areas of multiple-unit residential properties.
 - Lodging establishments.
 - State, county, city, village or town buildings.
 - All enclosed places, other than those listed in Subsections (b)(1) that are places of employment or that are public places.
- (2) **Smoking Prohibited Outdoor Areas.** No person may smoke at any of the following outdoor locations:
- Anywhere on the premises of a child care center when children who are receiving day child care services are present.
 - Anywhere on the grounds of a Type 1 juvenile correctional facility.
 - A location that is twenty-five (25) feet or less from a residence hall or dormitory that is owned or operated by the Board of Regents of the University of Wisconsin System.
- (3) **Other Smoking Prohibited Areas.** No person may smoke in any of the following:
- A sports arena.
 - A bus shelter.
 - A public conveyance.
- (c) **Responsibility of Persons in Charge.**
- No person in charge may allow any person to smoke in violation of Subsection (b) above at a location that is under the control or direction of the person in charge.
 - A person in charge may not provide matches, ashtrays, or other equipment for smoking at the location where smoking is prohibited.
 - A person in charge shall make reasonable efforts to prohibit persons from smoking at a location where smoking is prohibited by doing all of the following:

- a. Posting signs setting forth the prohibition and providing other appropriate notification and information concerning the prohibition.
 - b. Refusing to serve a person, if the person is smoking in a restaurant, tavern, or private club.
 - c. Asking a person who is smoking to refrain from smoking and, if the person refuses to do so, asking the person to leave the location.
- (4) If a person refuses to leave a location after being requested to do so as provided in Subsection (c)(3)c, the person in charge shall immediately notify an appropriate law enforcement agency of the violation.
- (5) A person in charge may take measures in addition to those listed in Subsections (b) and (c) to prevent persons from being exposed to others who are smoking or to further ensure compliance with this Section.
- (d) **Exceptions.** The prohibition against smoking in Subsection (b)(1) does not apply to the following:
- (1) A private residence.
 - (2) A room used by only one person in an assisted living facility as his or her residence.
 - (3) A room in an assisted living facility in which two (2) or more persons reside if every person who lives in that room smokes and each of those persons has made a written request to the person in charge of the assisted living facility to be placed in a room where smoking is allowed.
 - (4) A retail tobacco store that is in existence on June 3, 2009, and in which only the smoking of cigars and pipes is allowed.
 - (5) A tobacco bar that is in existence on June 3, 2009, and in which only the smoking of cigars and pipes is allowed.
- (e) **Designated Outside Areas for Smoking.** A person in charge of a restaurant, tavern, private club, or retail establishment located in an area subject to this Section may designate an outside area that is a reasonable distance from any entrance to the restaurant, tavern, private club, or retail establishment where customers, employees, or persons associated with the restaurant, tavern, private club, or retail establishment may smoke.
- (f) **Signs.** A person in charge shall comply with the rules for signage required by the State of Wisconsin.
- (g) **Penalties.**
- (1) Any person who violates Subsection (b) shall be subject to a forfeiture of not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Fifty Dollars (\$250.00) for each violation.
 - (2) Except as provided in Subsections (g)(3) or (4), any person in charge who violates Subsection (c)(2)-(4) shall be subject to a forfeiture of One Hundred Dollars (\$100.00) for each violation.
 - (3) For violations subject to the forfeiture under Subsection (g)(2), if the person in charge has not previously received a warning notice for a violation of Subsections (c)(2)-(4),

the law enforcement officer shall issue the person in charge a warning notice and may not issue a citation.

- (4) No person in charge may be required under Subsection (g)(2) to forfeit more than One Hundred Dollars (\$100.00) in total for all violations of Subsections (c)(2)-(4) occurring on a single day.
- (h) **Injunction.** Notwithstanding Sec. 165.60, Wis. Stats., the state or the City of Washburn or any affected party may institute an action in any court with jurisdiction to enjoin repeated violations of this Section.

State Law Reference: Sec. 101.123, Wis. Stats.

Sec. 8-1-9 Purchase or Possession of Cigarettes or Tobacco Products by Person Under 18 Prohibited.

- (a) **Definitions.** The following definitions shall be applicable in this Section:
 - (1) **Cigarette.** Has the meaning given in Section 139.30(1m), Wis. Stats.
 - (2) **Law Enforcement Officer.** Has the meaning given in Section 165.85(2)(c), Wis. Stats.
 - (3) **Retailer.** Has the meaning given in Section 134.66(1)(g), Wis. Stats.
 - (4) **Tobacco Products.** Has the meaning given in Section 139.75(12), Wis. Stats.
- (b) **Prohibitions.**
 - (1) No person under eighteen (18) years of age may falsely represent his or her age for the purpose of receiving any cigarette or tobacco product.
 - (2) No person under eighteen (18) years of age may purchase, attempt to purchase or possess any cigarette or tobacco product except as follows:
 - a. A person under eighteen (18) years of age may purchase or possess cigarettes or tobacco products for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer.
 - b. A person under eighteen (18) years of age, but not under fifteen (15) years of age, may purchase, attempt to purchase or possess cigarettes or tobacco products in the course of his or her participation in an investigation under Section 254.916, Wis. Stats., that is conducted in accordance with Section 254.916(3), Wis. Stats.
 - (3) No person may purchase cigarettes on behalf of, or to provide to, any person who is under eighteen (18) years of age. Any person who violates this Subsection may be:
 - a. Required to forfeit not more than Five Hundred Dollars (\$500.00) if the person has not committed a previous violation within thirty (30) months of the violation.
 - b. Required to forfeit not more than Seven Hundred Fifty Dollars (\$750.00) if the person has committed a previous violation within thirty (30) months of the violation.

- c. Required to forfeit not more than One Thousand Dollars (\$1,000.00) if the person has committed two (2) previous violations within thirty (30) months of the violation.
 - d. Required to forfeit not more than Ten Thousand Dollars (\$10,000.00) if the person has committed three (3) or more previous violations within thirty (30) months of the violation.
- (c) **Seizure of Tobacco Products.** A law enforcement officer shall seize any cigarette or tobacco product that has been sold to and is in possession of a person under eighteen (18) years of age.

Sec. 8-1-10 Compulsory Connection to Sewer and Water.

- (a) **Connections Required.**
- (1) All new construction to be used for human habitation shall be required to connect to water and sewer utilities as provided in Section 9-5-7.
 - (2) Connection of existing buildings used for human habitation shall be required as provided in Section 9-5-7. If a person to whom written notice requiring a connection has been given shall fail to comply for more than ten (10) days after the notice, the Common Council may cause the necessary connections to be made and the expense thereof shall be assessed as a special tax against the property pursuant to Sec. 281.45, Wis. Stats.
- (b) **Abatement of Privies and Cesspools.** After connection to a water main and public sewer, no privy, privy vault or cesspool shall be constructed or maintained upon such lot or parcel and shall be abated upon ten (10) days' written notice for such abatement by the Common Council. If not so abated, the Common Council shall cause the same to be done and the cost thereof assessed as a special tax against the property.
- (c) **Extension of Time.** The City may extend the time for connection hereunder or may grant another temporary relief where strict reinforcement would work an unnecessary hardship without corresponding public or private benefit.
- (d) **Sewer Connection Charge.**
- (1) Before the required connection is made for an existing or new building used or to be used for human habitation, a sewer connection charge will be imposed on all such connections and levied as a special charge.
 - (2) Whenever such buildings are to be erected on lots or parcels which are subject to the provisions for subdivisions within the Land Division and Platting Chapter of this Municipal Code, connection and payment of the above charges shall be in accordance with the appropriate provisions of the Subdivision and Platting Chapter.
- (e) **Annexed Areas.** Buildings used for human habitation which are located in areas annexed to the City of Washburn are subject to Subsections (a) through (d) above.

CHAPTER 2

Pollution Abatement

- 8-2-1 Cleanup of Spilled or Accidentally Discharges Wastes
- 8-2-2 Storage of Polluting Substances

SEC. 8-2-1 CLEANUP OF SPILLED OR ACCIDENTALLY DISCHARGED WASTES.

- (a) **Purposes.** The purpose of this Section is:
 - (1) To insure safe and effective hazardous materials and hazardous waste management; and
 - (2) To establish a program of regulation over the storage, transportation, treatment and disposal of hazardous materials and waste in the City of Washburn.
- (b) **Findings.** The City finds that:
 - (1) Increasing production and consumption rates, continuing technological development and energy requirements have led to the generation and use of greater quantities of hazardous materials and associated hazardous waste;
 - (2) The problems of disposing of hazardous waste are increasing as a result of air and water pollution controls and a shortage of available landfill sites;
 - (3) While it is technologically and financially feasible for hazardous waste generators to dispose of their waste in a manner which has a less adverse impact on the environment than current practices, such knowledge is not being utilized to the extent possible;
 - (4) Even though the City is not heavily industrialized, there is significant daily hazardous waste disposal problems; and
 - (5) The public health and safety and the environment are threatened where hazardous materials and wastes are not managed in an environmentally sound manner.
- (c) **Definitions.**
 - (1) **Disposal.** The discharge, deposit, injection, dumping, spilling, leaking or placing of any hazardous material or waste into or on any land or water so that its hazardous waste or any constituent thereof may enter the environment, be emitted into the air or discharged into any waters, including groundwaters.
 - (2) **Hazardous Material.** Any element, compound or combination thereof which is flammable, corrosive, etc., and which, because of handling, storage, processing or packaging, may have detrimental effects on operating and emergency personnel, the public, equipment and/or the environment.
 - (3) **Hazardous Waste.** Any waste or combination of wastes of a liquid, gaseous or semi-solid form which, because of its quantities, concentration or physical, chemical or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise managed. Such wastes include, but are not limited to, those which are toxic, carcinogenic, flammable, irritants, strong sensitizers or which generate pressure through

decomposition, heat or other means, as well as containers and receptacles previously used in the transportation, storage, use or application of substances described as hazardous waste.

- (4) **Generation.** The act or process of producing hazardous waste.
- (5) **Person.** Any individual, partnership, corporation (including a government corporation), trust, association, firm, joint stock company, organization, commission, the City or federal government or other entity.
- (6) **Storage.** Containment in such manner as not to constitute disposal.
- (7) **Transport.** The movement from the point of production, generation or use to any intermediate site and finally to the point of ultimate storage or disposal.
- (8) **Treatment.** Any method, technique or process, including neutralization, designed to change the physical, chemical or biological character or composition of hazardous waste so as to neutralize or render it non-hazardous, safer for transport, amenable for recovery or storage, or reduced in volume.
- (9) **Treatment Facility.** A location for treatment, including an incinerator or a facility where generation has occurred.
- (d) **Prohibited Discharge.** No person shall discharge or cause to be discharged, leak, leach or spill upon any public street, alley or public property, or onto the ground, surface waters, subsurface waters, aquifers or on any private property, except those areas specifically licensed for waste disposal or landfill activities within the City as defined by Subsection (c)(2).
- (e) **Containment Cleanup and Restoration.**
 - (1) All persons, firms or corporations delivering, hauling, disposing, storing, discharging or otherwise handling potentially polluting substances, solid, liquid or gas shall be immediately reported to the Fire Chief and Emergency Government Director.
 - (2) Any person in violation of this Section must, upon authorization by the Fire Chief and Emergency Government Director, begin immediate actions to contain, clean up and remove to an approved repository the offending material(s) and restore the site to its original condition. Should any person fail to engage or complete the requirements of this Section, the Fire Chief and Emergency Government Director may order the required actions to be taken by public or private resources, with all costs incurred by the City to be reimbursed by the person violating this Section.
- (f) **Access.** Access to any site, public or private, where a prohibited discharge is indicated or suspected shall be provided to the Fire Chief and Emergency Government Director for purposes of evaluating the threat to the public and monitor containment, cleanup and restoration.
- (g) **Public Protection.** Should any prohibited discharge occur that reasonably causes a threat to the life, safety or health of the public, the senior fire officer on the scene may order an evacuation of the area or take other appropriate protective steps for a period of time as deemed necessary for the safety of the public.
- (h) **Enforcement.** The Fire Chief shall have authority to issue citations or complaints under this Section.
- (i) **Financial Liability.** Any person, firm or corporation in violation of this Section shall be liable to the City for any expenses incurred by the City or loss or damage sustained by the City by reason of such violation and to any individual whose person or property was damaged by such violation. The party or parties responsible for the release, escape or discharge of wastes shall be held financially liable for the cost of any cleanup or attempted cleanup deemed necessary or desirable and undertaken by the City, or its designated agent, in

any effort to minimize the pollutional effects of the discharged waste or hazardous material substance.

SEC. 8-2-2 STORAGE OF POLLUTING SUBSTANCES.

It shall be unlawful for any person, firm or corporation to store any potentially polluting substances unless such substances are stored in such manner as to securely prevent them from escaping onto the ground surface, air and/or into any street, sewer, ditch or drainageway, lake or stream within the jurisdiction of the City of Washburn.

CHAPTER 3

Refuse Disposal and Collection

- 8-3-1 Purpose
- 8-3-2 Definitions
- 8-3-3 Collection By City
- 8-3-4 Fees for Disposal and/or Collection of Refuse
- 8-3-5 Recycling Regulations
- 8-3-6 Miscellaneous Recycling and Refuse Disposal Regulations
- 8-3-7 Violations; Penalties

SEC. 8-3-1 PURPOSE.

The purpose of this Chapter shall be to maintain and protect public health and sanitation by removal of garbage, rubbish and other waste material from all residences and commercial establishments in the City of Washburn, to eliminate dispersal of garbage waste and other waste material along the streets, roads and other public and private properties in and near the City of Washburn, and to provide a comprehensive City recycling program.

SEC. 8-3-2 DEFINITIONS.

The following definitions shall be applicable in this Chapter:

- (a) **Bulky Waste.** Items whose large size precludes or complicates their handling by normal collection, processing or disposal methods.
- (b) **Commercial Solid Waste.** All solid waste that normally originates in a commercial or industrial environment from commercial or industrial places of business.
- (c) **Commercial Unit.** Each business establishment, whether commercial or industrial, consisting of a unit in the City of Washburn designed for business or industrial purposes and shall consist of all waste producing units not defined as a residential unit.
- (d) **Curb.** The back edge or curb and gutter along a paved street or where one would be if the street was paved and had a curb and gutter.
- (e) **Deciduous Material.** Yard and garden wastes including leaves, grass, clippings, flowers and similar vegetation, but specifically excluding sod, dirt, large twigs and branches, fruits, vegetables and other similar vegetation. Deciduous material shall include small amounts of shrubs and tree trimmings less than one (1) inch in diameter.
- (f) **Demolition Waste.** That portion of solid wastes from the repair, remodeling, construction or reconstruction of buildings, such as lumber, roofing, sheathing scraps, rubble, broken concrete, asphalt, plaster, conduit, pipe, wire, insulation and other like materials resulting from the demolition of buildings and improvements.
- (g) **Dwelling Unit.** A place of habitation occupied by a normal single-family unit or a combination of persons who may be considered as equivalent to a single-family unit for the purposes of this Chapter. A duplex shall constitute two (2) dwelling units and a tri-plex shall constitute three (3) dwelling units.
- (h) **Hazardous Waste.** Radioactive, volatile, highly flammable, explosive, toxic or hazardous materials. Hazardous materials shall include but not be limited to, any

amount of waste listed or characterized hazardous by the U.S. Environmental Protection Agency or any State agency pursuant to the Resource Conservation and Recovery Act of 1976 as amended, and applicable State law.

- (i) **Newsprint.** That portion of newspapers (newspapers and advertising circulars normally accompanying newspapers) or periodicals and advertising circulars printed on newsprint which remain in substantially original condition at the time of disposal such that the material is suitable for commercial-grade recycling. "Newsprint" does not include the paper commonly used in the production of magazines, books and other physical media for written material or paper which is not suitable for recycling purposes or is in a state which makes separation unreasonable or unduly expensive for reasons which include but are not limited to, the following:
 - (1) The paper has been put to another use, such as wrappings for other wastes, and is thus rendered unfit for commercial recycling;
 - (2) The paper is no longer flat and folded to the approximate dimensions of its original condition;
 - (3) The paper is mixed in with commercial or municipal litter or refuse as a result of the failure of citizen or business invitees to separate newspapers from other discarded materials outdoors or in publicly accessible areas of buildings;
 - (4) The paper has been damaged or altered by any other means so as to make recycling impossible or unduly difficult.
- (j) **Residential Solid Waste.** All solid waste that normally originates in a residential environment from residential dwelling units.
- (k) **Residential Unit.** Each living unit in the City of Washburn designed for permanent living quarters, limited to a single-family dwellings and units in duplexes and tri-plexes and including mobile homes.
- (l) **Scavenging.** The uncontrolled removal of materials at any point in solid waste management.
- (m) **Solid Wastes.** Garbage, rubbish and other useless, unwanted or discarded material from agricultural, residential, commercial, industrial or institutional activities. Solid waste does not include solid or dissolved material in domestic sewage.
- (n) **Special Haul Items.** Body waste, dead animals, large vehicle parts, large equipment, large appliances, large discarded furniture and bulky construction/demolition waste shall be considered items subject to special haul services and charges, and are not considered residential waste subject to regular weekly collection.
- (o) **Storage.** The interim containment of solid waste in an approved manner after generation and prior to collection and ultimate disposal.
- (p) **Storage Areas.** Areas where persons place containers during noncollection days as well as areas where containers are set out on collection day.
- (q) **Yard Wastes.** That part of solid waste consisting of leaves, grass clippings, sawdust and twigs, shrubs and small brush less than one (1) inch diameter.

SEC. 8-3-3 COLLECTION BY CITY.

- (a) **Title.** This Chapter shall be known as the Municipal Waste Disposal Ordinance of the City of Washburn, Wisconsin, hereinafter referred to as "Ordinance" or "Chapter".
- (b) **Residential Waste.** All refuse and recyclable materials produced by residential units in the City, shall be collected and disposed of by the City or by persons hired or contracted by the City to perform such service.

- (c) **Non-Residential Waste.** All refuse and recyclable materials produced by entities that are not residential units shall be collected and disposed of by the entity or by persons hired or contracted by the entity to perform such service.
- (d) **Supervision.** The collection of refuse and recyclable materials as defined herein shall be under the supervision of the Director of Public Works who shall make such regulations as are necessary regarding the collection of refuse and recyclable material with the approval of the Common Council. Enforcement of health regulations relating to refuse and recyclable material disposal shall be the responsibility of the Police Department of the City of Washburn.
- (e) **Billing for Services.** All residential units within the City of Washburn shall receive refuse and recyclable materials collection services as set forth in this Chapter and in accordance with locations and schedules to be determined by the City. Each residential unit shall be billed for said service as a City utility on a quarterly basis.

SEC. 8-3-4 FEES FOR DISPOSAL AND/OR COLLECTION OF REFUSE.

- (a) **Residential.**
 - (1) Residential charges for refuse and recyclable materials collection and/or disposal shall be determined by resolution of the Common Council of the City of Washburn from time to time and shall be billed following service to each residential unit on a quarterly municipal utility bill. The tenant of each residential unit as defined in this Chapter shall receive one (1) quarterly bill for collection and disposal as determined by the Clerk or Treasurer's office.
 - (2) Residential charges for refuse and recyclable collection are set according to a volume based fee system as follows: a base fee of Ten Dollars (\$10.00) per month per dwelling unit, plus Fifty Cents (50¢) per sticker for authorized stickers which contain the City's refuse collection logo. Each dwelling unit may place one (1) bag of non-recyclable materials each week for collection without a sticker. Each additional bag of non-recyclable materials shall have an authorized sticker affixed.
 - (3) Where commercial uses, other than home occupations, are maintained in conjunction with a residential unit(s), the residential unit(s) shall be deemed commercial for the purpose of this Chapter and billing purposes. Owners of units, including home occupations, shall contract with a hauler for removal of the waste generated by said home occupation in addition to their normal residential fee.
- (b) **Delinquent Charges.** Any charges for refuse and recyclable materials collection and/or disposal which are delinquent by November 1st of the year of delinquency shall be made a special assessment and lien against the real property to which the services were provided. When an account becomes twenty (20) days delinquent, the City Clerk's office shall send a twenty (20) day delinquency notice to the tenant, advising them that failure to pay the account shall result in assessment against the real property as set forth above. The administrative cost of the delinquency notice sent by the City Clerk shall be added to the delinquent bill as a one and one-half percent (1.5%) monthly charge.
- (c) **Billing Adjustment.** An adjustment to the fee assessed for disposal and/or collection of refuse and recyclable materials shall be at the discretion of the Common Council of the City of Washburn. Written requests for adjustment of fees must be made to the City Clerk's office and reviewed by the Public Works Committee prior to consideration by the Common Council.

SEC. 8-3-5 RECYCLING REGULATIONS.

- (a) **Findings and Declaration of Purpose.** The City of Washburn hereby finds and determines that there is an increasing necessity to conserve natural resources in landfill space and to promote recycling as mandated by state law. In the age of shortages, conservation of recyclable material is an important public concern. It is the purpose of this Section to promote recycling, composting, and resource recovery through the administration of a mandatory recycling program, as provided in Sec. 159.11, Wis. Stats., and Ch. NR 544, Wis. Adm. Code, by the City of Washburn in order to protect and promote the public health, safety and welfare.
- (b) **Statutory Authority.** This Section is adopted as authorized under Sec. 159.09(3)(b), Wis. Stats.
- (c) **Abrogation and Greater Restrictions.** It is not intended by this Section to repeal, abrogate, annul, impair or interfere with any existing rules, regulations, ordinances or permits previously adopted or issued pursuant to law. However, whenever this Section imposes greater restrictions, the provisions of this Section shall apply.
- (d) **Interpretation.** In their interpretation and application, the provisions of this Section shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this Section may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this Section is required by Wisconsin Statutes, or by a Standard in Ch. NR 544, Wis. Adm. Code, and where the Section provision is unclear, the provision shall be interpreted in light of the Wisconsin Statutes and the Ch. NR 544 standards in effect on the date of the adoption of this Section, or in effect on the date of the most recent text amendment to this Section.
- (e) **Applicability.** The requirements of this Section apply to all persons within the boundaries of the City of Washburn.
- (f) **Administration.** The provisions of this Section shall be administered by the Common Council of the City of Washburn.
- (g) **Effective Date.** The provisions of this Section shall take effect on January 1st, 1995.
- (h) **Definitions.** For the purpose of this Section the following words and phrases shall have the meanings ascribed to them in this Subsection:
 - (1) Aluminum Cans shall include used beverage cans only.
 - (2) Bags shall be plastic bags designated for refuse; with sufficient wall strength to maintain physical integrity when lifted by top. With a capacity not to exceed thirty-three (33) gallons and a loaded weight of no more than fifty (50) pounds.
 - (3) Container Glass shall include container glass only. Glass does not include ceramic cups, dishes, ovenware, plate glass, safety and window glass, heat resistant glass such as pyrex, lead-based glass such as crystal, or TV tubes.
 - (4) Bi-Metal Container means a container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.
 - (5) Corrugated Cardboard shall include corrugated cardboard only. Does not include waxed cardboard or chipboard such as cereal boxes, shoe boxes and similar materials.
 - (6) HDPE means high density polyethylene plastic containers marked by the SPI Code No. 2.

- (7) LDPE means low density polyethylene plastic containers marked by the SPI Code No. 4.
- (8) Magazines means magazines and other materials printed on similar paper.
- (9) Major Appliance means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, oven, refrigerator, stove, furnace, boiler, dehumidifier, water heater (with capacitor removed), or any item commonly referred to as a white good.
- (10) Mixed or Other Plastic Resin Types means plastic containers marked by the SPI Code No. 7.
- (11) Mixed Papers shall include all grades of papers: including white, colored, ledger, shiny, coated, carbonless or NCR papers; envelopes, including windowed, labeled, and kraft; magazines, phone books, computer print out paper, glued pads and tablets, file folders, key punch cards, spiral notebooks, cereal boxes, shoe boxes, etc. Can include paper clips and staples. Does not include hand towels or other paper products from restrooms, or soiled napkins and paper plates. Also does not include carbon paper, cellophane, or any waxed paper.
- (12) Multiple Family Dwelling means a property containing five (5) or more residential units, including those which are occupied seasonally.
- (13) Newspapers shall include newspapers and newspaper advertisements. Does not include catalogues, magazines, cardboard, or other paper products.
- (14) Non-Residential Facilities and Properties means commercial, retail, industrial, institutional and governmental facilities and properties. This term does not include multiple family dwellings.
- (15) Office Paper means high grade printing and writing papers from offices in non-residential facilities and properties.
- (16) Person includes any individual, corporation, partnership, association, local governmental unit, as defined in Sec. 66.229(1)(a), Wis. Stats., state agency or authority, or federal agency.
- (17) PETE means polyethylene terephthalate plastic containers marked by the SPI Code No. 1.
- (18) Plastic Bottles shall include only plastic bottles clearly marked with the recycling emblem, encircling the #1 (PET or PETE) or the #2 (HDPE). Does not include motor oil bottles, even if they are labeled #1 or #2.
- (19) PS means polystyrene plastic containers marked by the SPI Code No. 6.
- (20) PVC means polyvinyl chloride plastic containers marked by the SPI Code No. 3.
- (21) Postconsumer Waste means solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in Sec. 144.44(7)(a)1, Wis. Stats.
- (22) Recyclable Materials includes lead acid batteries; major appliances; waste oil; yard waste; aluminum cans; container glass; corrugated cardboard; mixed papers; newspapers; #1 through #7 plastics; tin cans and waste tires; bi-metal containers.
- (23) Solid Waste has the meaning specified in Sec. 144.01(15), Wis. Stats.
- (24) Solid Waste Facility has the meaning specified in Sec. 144.43(5), Wis. Stats.
- (25) Solid Waste Treatment means any method, technique or process which is designed to change the physical, chemical or biological character or composition of solid waste. "Treatment" includes incineration.

- (26) Tin Cans shall include tin coated metal cans and steel containers.
 - (27) Waste Tire means a tire that is no longer suitable for its original purpose because of wear, damage or defect.
 - (28) Yard Waste means leaves, grass clippings, yard and garden debris, and brush, including clean woody vegetative material no greater than six (6) inches in diameter. This term does not include stumps, roots or shrubs with intact root balls.
- (i) **Separation and Collection of Recyclable Materials.**
- (1) Separation Required. Occupants of single family and two (2) to four (4) unit residences, multiple family dwellings and non-residential facilities and properties shall separate the following materials from post-consumer waste:
 - a. Lead acid batteries.
 - b. Waste oil.
 - c. Aluminum cans.
 - d. Bi-metal containers.
 - e. Corrugated cardboard.
 - f. Foam polystyrene.
 - g. Container glass.
 - h. Mixed papers.
 - i. Newspapers.
 - j. #1 and #2 plastic.
 - k. #3-#7 plastic.
 - l. Steel (tin containers).
 - m. Major appliances.
 - n. Waste tires.
 - o. Yard waste.
 - p. Office paper.
 - (2) Changes in Requirements. The City of Washburn reserves the right to designate additional solid waste materials as recyclable, or currently collected materials as no longer recyclable in accordance with state law and to either add or delete them from any collection services provided by the City or its contractors. The City of Washburn shall provide written notice to service recipients of this declaration.
 - (3) Curbside Recyclable Materials. The following materials shall be placed in authorized recycling bin/container containing City logo for recycling and deposited curbside for pickup:

<u>#</u> <u>Material</u>	<u>Handle as follows:</u>
a. Aluminum containers	Curbside/twice monthly
b. Bi-metal containers	Curbside/twice monthly
c. Corrugated paper or other container board	Curbside/twice monthly
d. Foam polystyrene packaging	Curbside/twice monthly (as of January 1, 1996)
e. Glass containers	Curbside/twice monthly
f. Magazines and other materials printed on similar paper	Curbside/twice monthly
g. Newspaper and other materials printed on newsprint	Curbside/twice monthly
h. Rigid plastic containers, including those made of PETE (#1) and HDPE (#2)	Curbside/twice monthly

- i. Rigid plastic containers, including those made of PVC (#3), LDPE (#4), PP (#5), PS (#6), and other resins, or multiple resins (#7) Curbside/twice monthly
(as of January 1, 1996)
- j. Steel containers Curbside/twice monthly
- (4) Other Recyclable Materials. The following items shall be recycled as follows:
 - a. Major Appliances. To be recycled at a site, per agreement with collector, designated by the Common Council.
 - b. Tires. To be recycled at a site, per agreement with collector, designated by the Common Council.
 - c. Yard Waste. To be recycled at a site, per agreement with collector, designated by the Common Council.
 - d. Office Paper. To be recycled directly by businesses and persons on an individual basis.
 - e. Lead-acid Batteries. To be recycled at a site, per agreement with collector, designated by the Common Council.
 - f. Waste Oil. To be recycled at a site, per agreement with collector, designated by the Common Council.
- (j) **Separation of Recycling Materials Effective January 1, 1996**. Effective January 1, 1996 occupants of single family and two (2) to four (4) unit residences, multiple family dwellings and non-residential facilities and properties shall separate the following materials from post-consumer waste unless a variance has been issued by the Wisconsin Department of Natural Resources:
 - (1) Foam polystyrene packaging.
 - (2) Plastic containers or bottles made of PVC #3, LDPE #4, PP #5, PS #6 and mixed or other plastic resin types #7.
- (k) **Separation Requirements Exempted**. The separation requirements of Subsections (i) and (j) do not apply to the following:
 - (1) Occupants of single family and two (2) to four (4) unit residences, multiple-family dwellings and non-residential facilities and properties that send their post-consumer waste to a processing facility licensed by the Wisconsin Department of Natural Resources that recovers the materials specified in Subsections (i) and (j) from solid waste in as pure a form as is technically feasible.
 - (2) Solid waste which is burned as a supplemental fuel at a facility if less than thirty percent (30%) of the heat input to the facility is derived from the solid waste burned as supplemental fuel.
 - (3) A recyclable material specified in Subsections (i) and (j) for which a variance has been granted by the Department of Natural Resources under Sections 159.07(7)(d) or 159.11(2m), Wis. Stats., or NR 544.14, Wisconsin Administrative Code.
- (l) **Care of Recyclable Materials**. To the greatest extent practicable, the recyclable materials separated in accordance with Subsections (i) and (j) shall be clean and kept free of contaminants such as food or product residue, oil or grease, or other non-recyclable materials, including but not limited to household hazardous waste, medical waste, and agricultural chemical containers. Recyclable materials shall be stored in a manner which protects them from wind, rain and other inclement weather conditions.

(m) **Preparation and Collection of Recyclable Materials.**

- (1) Except as otherwise directed by Common Council, occupants of Single Family and two (2) to four (4) unit residences shall do the following for the preparation and collection of specified recyclable materials (aluminum cans, container glass, corrugated cardboard, mixed papers, newspapers, #1 and #2 plastic and bi-metal containers):
 - a. All recyclables shall be commingled in designated recycling bin/container containing City logo and placed curbside by 7:00 a.m. on the scheduled collection day.
 - b. Aluminum cans shall be empty and shall include used beverage cans only.
 - c. Container glass shall be cleaned, with caps and neck rings removed. Labels can remain on glass. Glass must be color separated into clear, brown, and green, place blue glass with green glass. Glass should not be broken. Glass does not include ceramic cups, dishes, ovenware, plate glass, safety and window glass, heat resistant glass such as pyrex, lead-based glass such as crystal, or TV tubes.
 - d. Corrugated cardboard shall be clean, and must be flattened and bundled in bundles. Does not include waxed cardboard or "chipboard" such as cereal boxes, shoe boxes and similar materials.
 - e. Mixed papers shall be bundled in bundles or placed in a brown paper grocery bag. Includes all grades of papers: including white, colored, ledger, shiny, coated, carbonless or NCR papers; envelopes, including windowed, labeled, and kraft; magazines, phone books, computer print out paper, glued pads and tablets, file folders, keypunch cards, post-it notes, spiral notebooks, cereal boxes, shoe boxes, etc. Can include paper clips and staples. Does not include hand towels or other paper products from restrooms, or soiled napkins and paper plates. Also does not include carbon paper, cellophane, or any waxed paper.
 - f. Newspaper shall be bundled in bundles or placed in a brown paper grocery bag. Includes newspaper and newspaper advertisements only. Does not include catalogues, magazines, cardboard, or other paper products.
 - g. Plastic bottles #1 and #2 shall be clearly marked with the recycling emblem, encircling the #1 (PET and PETE) or the #2 (HDPE). Does not include motor oil bottles, even if they are labeled #1 or #2. Caps must be removed. Labels can remain on plastic. Clean and flatten all bottles.
 - h. Tin cans shall be clean, labels must be removed, both ends must be cut out, and cans must be flattened. Cut out ends are recyclable. Tin cans with "molded or round bottoms" can be recycled without the "molded or round bottom" removed, provided the can has been rinsed and labels have been removed. Includes tin coated metal cans and steel containers.
- (2) The hauler has the right to reject or leave at the curb any recyclable material that is not prepared according to the specifications of Subsection (m)(1)b-h above, or in education materials provided by the contractor or the City to the service recipients. Materials may also be rejected if not separated from solid waste, placed in the proper recycling container, or are not designated recyclable materials for collection. The hauler also has the right to refuse to pick up any solid waste if it contains recyclable materials. In such cases, the hauler shall notify in writing the generator of the materials about the reasons for rejecting the items.

- (n) **Responsibilities of Owners or Designated Agents of Non-Residential Facilities and Properties.**
- (1) Owners or designated agents of non-residential facilities and properties shall do all of the following to recycle the materials specified in Subsections (j) and (m)(1) above:
 - a. Provide clear recycling bags for the recyclable materials.
 - b. Notify in writing, at least annually, all users, tenants and occupants of the properties about the established recycling program.
 - c. Notify users, tenants and occupants of reasons to reduce and recycle, which materials are collected, how to prepare materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.
 - (2) The requirements specified in Subsection (n)(1) above do not apply to the owners or designated agents of non-residential facilities and properties if the post-consumer waste generated within the facility or property is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in Subsections (j) and (m)(1) above from solid waste in as pure a form as is technically feasible.
- (o) **Responsibilities of Owners or Designated Agents of Multiple-Family Dwellings.**
- (1) Owners or designated agents of multiple-family dwellings shall do all of the following to recycle aluminum cans, container glass, corrugated cardboard, mixed papers, newspapers, #1 and #2 plastic and bi-metal containers:
 - a. Provide adequate, separate containers for the recyclable materials.
 - b. Notify tenants in writing at the time of renting or leasing the dwelling and at least semi-annually thereafter about the established recycling program.
 - c. Provide for the collection of the materials separated from the solid waste by the tenants and the delivery of the materials to a recycling facility.
 - d. Notify tenants of reasons to reduce and recycle solid waste, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.
 - (2) The requirements specified in Subsection (o)(1) above do not apply to the owners or designated agents of multiple-family dwellings if the post-consumer waste generated within the dwelling is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in Subsection (o)(1) above from solid waste in as pure a form as is technically feasible.
- (p) **Prohibitions on Disposal of Recyclable Materials.** No person may dispose of in a solid waste disposal facility or burn in a solid waste treatment facility any of the materials specified in Subsections (j) and (m)(1) above which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.
- (q) **Unlawful Removal of Recyclables.** It shall be unlawful for any person, unless under contract with or licensed by the City of Washburn, to collect or remove any recyclable material that has been deposited or placed at the curb for the purposes of collection for recycling.

- (r) **Non-Disposable Materials.** It shall be unlawful for any person to place for disposal any of the following waste: hazardous and toxic wastes, chemicals, explosives, liquids, flammable liquids, paint, trees and stumps, construction debris, carcasses, medical wastes (unless personal needles shall be properly contained in a sharps container to eliminate injury to collection personnel).
- (s) **Garbage from Outside the Municipality.** It shall be unlawful to bring refuse for disposal (and recyclables) from outside the corporate limits into the City of Washburn unless authorized by agreement with the Common Council.
- (t) **Notification for Collection.**
 - (1) All occupants, persons in possession, charge or control of private residences upon which garbage or recyclables are created, accumulated or produced shall notify the City Clerk-Treasurer that collection of garbage and recyclables from such place is required. Occupants, persons in possession, charge or control of premises and places other than private residences shall contract separately with the private contractor for the collection of their garbage and refuse and with respect to the frequency of the collection required.
 - (2) The City shall use various informational and educational efforts to encourage waste reduction and recycling, including, but not limited to, brochures enclosed with quarterly billings.
- (u) **Enforcement.**
 - (1) Any authorized officer, employee or representative of the City of Washburn may inspect recyclable materials separated for recycling, post-consumer waste intended for disposal, collection sites and facilities, collection vehicles, collection areas of multiple-family dwellings and non-residential facilities and properties, solid waste disposal facilities and solid waste treatment facilities, and any records relating to recycling activities, for the purpose of ascertaining compliance with the provisions of this Section. No person may refuse access to any authorized officer, employee or authorized representative of the City of Washburn who requests access for purposes of inspection, and who presents appropriate credentials. No person may obstruct, hamper, or interfere with such an inspection.
 - (2) Any person who violates a provision of this Section may be issued a citation by a City law enforcement officer to collect forfeitures. The issuance of a citation shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this Subsection.
 - (3) Any person or legal entity violating any of the provisions of this Section shall be subject to the penalty provisions of Section 8-3-7 of the Washburn Code of Ordinances.

SEC. 8-3-6 MISCELLANEOUS RECYCLING AND REFUSE DISPOSAL REGULATIONS.

- (a) **Nondisposable Materials.**
 - (1) It shall be unlawful for any person to place for collection any of the following wastes:
 - a. Hazardous waste;
 - b. Toxic waste;
 - c. Chemicals;

- d. Explosives or ammunition;
 - e. Drain or waste oil or flammable liquids;
 - f. Large quantities of paint;
 - g. Tires and batteries;
 - h. Dead animals;
 - i. Gravel and concrete;
 - j. Construction debris;
 - k. Institutional animal or human waste;
 - l. White goods;
 - m. Hot ashes (ashes that are fully extinguished and dry may be left for collection in noncombustible containers).
- (2) In regard to the aforementioned, materials shall be disposed of in the manner prescribed by Federal or State laws by special arrangement with the City's authorized hauler or by individuals hauling their own materials.
- (b) **Hospital/Medical Wastes.** It shall be unlawful for any person to place for collection any pathogenic hospital or medical wastes. Such items as needles and syringes may be disposed of as long as they are contained to eliminate injury to disposal personnel.
 - (c) **Building Waste.** All demolition waste resulting from remodeling, construction, or removal of a building, roadway, or sidewalk shall be disposed of by the owner, builder, or contractor. The hauling of said building waste shall be exempt from having to haul with the authorized hauler and the removal of said materials shall be the responsibility of the owner, builder or contractor.
 - (d) **Alteration of Recyclable Materials.** In regard to residential units, it shall be unlawful to intentionally alter recyclable materials so as to render them as nonrecyclable material.
 - (e) **Restriction on Time of Placement.** All receptacles and containers for nonrecyclable and recyclable materials that are placed adjacent to the public street or alley as designated by the collector shall be placed adjacent to the public street or alley no earlier than twenty-four (24) hours before the regular collection time and shall be removed from the curbside collection point within twenty-four (24) hours after the regular collection time.
 - (f) **Refuse from Outside of City.** It shall be unlawful to bring refuse from outside the City of Washburn into the City limits for disposal in the City of Washburn unless specifically authorized by agreement with the Common Council.
 - (g) **Title to Refuse and Recyclable Materials.**
 - (1) In the absence of an agreement to the contrary, title to the refuse and recyclable material placed for collection and disposal by the City's occupants shall vest in the hauler as soon as it is placed for collection. It shall be a violation of this Chapter for any person unauthorized by the City to collect or pick up or cause to be collected or picked up any recyclable materials that are placed for disposal by the City's collectors. Any and each such unauthorized collection or scavenging of recyclable materials in violation hereof shall constitute a separate and distinct offense punishable as provided for herein. Nothing herein shall be construed to allow the scavenging, removal, transportation, or resorting of refuse which has been placed for disposal under this Chapter. Any such scavenging or separation of refuse that has been placed for disposal by the producer of said refuse shall be deemed a violation of this Chapter.
 - (2) This Chapter shall not prohibit the actual producers of recyclable materials or the owners of residential or commercial units or nonresidential units upon which recyclable materials have been accumulated from personally collecting, conveying and disposing of recyclable materials, provided such producers or owners do not violate the intent of this Chapter.

- (h) **Garbage Accumulation; When a Nuisance.** The accumulation or deposit of garbage, trash, refuse, recyclable materials or putrescible animal or vegetable matter in or upon any lot or land on any public or private place within the City which causes the air or environment to become noxious or offensive or to be in such a condition as to promote the breeding of flies, mosquitoes or other insects, or to provide a habitat or breeding place for rodents or other animals, or which otherwise becomes injurious to the public health, is prohibited and declared to constitute a nuisance. Refuse areas shall be kept in a nuisance- and odor-free condition. Refuse shall not be allowed to accumulate. The accumulation of eight (8) bags of garbage for more than a two (2) week period shall constitute a nuisance. Violation will result in the occupant and/or owner being notified to clean up his area, with continued violations resulting in the owner being prosecuted under the provisions of this and other City ordinances.
- (i) **Improper Placement.** No persons shall deposit, throw, or place any garbage, offal, dead animals, combustible refuse or other deleterious matter in any park, lane, alley, street, public grounds or public place within the City or place any garbage, offal, dead animals or other refuse matter upon any private property not owned by such person.
- (j) **Special Haul Items.** It shall be unlawful for any person to set for regular collection and special haul items, unless the individual placing said item has contracted directly with private or the authorized collector for removal at the rates in effect at the time or negotiated by the parties.
- (k) **Interference with Authorized Collector.** No person other than an authorized collector shall collect or interfere with any garbage after it shall have been put into a garbage receptacle and deposited in the proper place for the collector, nor shall any authorized person molest, hinder, delay or in any manner interfere with the authorized garbage collector in the discharge of his duties.
- (l) **Disposal of Nonrecyclable Materials.**
- (1) For Residential Units, nonrecyclable materials shall be separated from recyclable materials and shall be placed for collection by the City's licensed Collection service or disposed of individually in approved landfill.
 - (2) Subject to special arrangements with the contracted hauler, all residential unit nonrecyclable materials shall be placed in plastic garbage bags not exceeding the capacity of thirty-three (33) gallons and/or a net weight of fifty (50) pounds. All refuse material not suitable of placement in containers or bags shall be placed in bundles or broken into sizes small enough to be handled by one (1) person. Each container for a residential unit shall be equipped with suitable handles and tight fitting covers and shall be water tight not exceeding forty (40) gallons. All garbage containers shall be kept in a neat, clean and sanitary condition at all times. All garbage containers for residential and commercial units shall be of metal, durable plastic, or other suitable, moisture resistant materials, including heavy-duty refuse disposal plastic bags. Plastic garbage bags must be closed with a tie and shall consist of plastic material not damaged by freezing and not susceptible to melting. They shall be capable of being handled during hot and cold weather without damage during normal handling by collection crews. Plastic bags shall be of sufficient strength to allow lifting and loading of contents without tearing.
 - (3) It shall be the duty of every occupant, tenant, or proprietor or any residential or commercial unit to provide and at all times keep in a suitable place readily accessible to the refuse collector, garbage containers capable of holding all garbage which would ordinarily accumulate on such premises between the times of successive collections. The owner of any multiple dwelling shall furnish or require the tenant thereof to furnish proper

garbage containers. Garbage containers shall be marked so as to indicate the residential unit to which they belong.

- (m) **Mandatory Separation of Materials for Composting; Yard Wastes.** No person in the City shall by curbside collection dispose of deciduous materials, such as yard waste, grass clippings and leaves with other refuse that may be lawfully left for collection. Brush and tree limbs and stumps, yard waste, such as grass clippings and leaves, may be brought to sites designated within the City by the City. The hauling of said deciduous material shall be exempt from being required to be hauled by authorized collectors.

SEC. 8-3-7 VIOLATIONS; PENALTIES.

- (a) Any person who shall violate any of the provisions of this Chapter shall be subject to a penalty which shall be as follows:
- (1) First Offense. Any person found in violation of any provision of this Chapter as a first offender shall forfeit not less than Twenty-five Dollars (\$25.00) nor greater than One Hundred Dollars (\$100.00).
 - (2) Second and Subsequent Offenses. Any person found guilty of violating any part of this Chapter who has previously been notified of being in violation or been convicted of violating the same Chapter within one (1) year shall, upon conviction thereof, forfeit not less than Twenty-five Dollars (\$25.00) nor more than Five Hundred Dollars (\$500.00) for each such offense, together with costs of prosecution and, in default of payment of such forfeiture and costs, shall be imprisoned in the County Jail until such forfeiture and costs of prosecution are paid, but not exceeding six (6) months.
- (b) **Separate Offenses.** Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Chapter shall preclude the City from maintaining any appropriate action to prevent or remove a violation of any provision of this Chapter.
- (c) **Special Collections for Violations.** If any entity, including those receiving collection from a private firm, is found in violation of the collection and storage requirements of this Chapter and fails to comply with a notification and/or citation, the Mayor shall be empowered to order a special collection to remove such violation. The person shall be notified of such special collection and the charges therefor. The special collection shall be made and if billing is unpaid, the bill shall be considered a lien on the property and shall be placed on the tax roll. A person shall not use the special collection provision of this Chapter to circumvent requirements for collection by a private firm.

Title 8 ► Chapter 4

City Cemetery

- 8-4-1** City Cemetery Established
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Sec. 8-4-1 City Cemetery Established.

Woodland Cemetery is owned and maintained by the City of Washburn for the benefit of all citizens. Rules and regulations must be set by the Common Council to ensure proper maintenance and beauty and to prevent abuse and destruction. The City reserves the right to amend or change any of these Ordinances to conform with newly developed cemetery practices.

Sec. 8-4-2 Purchase of Lots.

Persons or their agents desiring to purchase a lot in the cemetery shall be referred to the Cemetery Sexton or to his/her duly authorized agent. The Sexton will have available suitable plats showing size and price of lots, and such other information as may be required, and will render assistance to those desiring to make lot purchases. Upon having made a lot selection, the prospective purchaser may appear at the Office of the City Clerk where the lot sale will be made and a deed issued.

Sec. 8-4-3 Ownership Rights of Interment.

- (a) **Burial Rights.** The lot owner or his/her authorized agent shall have the right to use a lot or portion of a lot for burial purposes only in accordance with the terms of the Cemetery Rules and Regulations established by this Chapter.
- (b) **Cemetery Deed.** Upon full payment of the purchase price of a lot, the City Clerk will issue a cemetery deed, and the deed will be recorded in the records of the City of Washburn as evidence of lot ownership. Lots or fractions of lots for which lot deeds have been issued by the City will not thereafter be divided except by consent of the City. All lots are exempt from taxation and cannot be seized for debt (except those owed to the cemetery) nor can they be mortgaged.
- (c) **Reposessed Lots.** All reposessed vacant grave spaces shall be subject to the same fees and charges.
- (d) **Burial of Non-Owners.** The lot owner shall have acquired the lot for interment of himself/herself and members of his/her family. However, the lot owner may grant written permission (which must be notarized and placed on file with the City Clerk) for the burial of other persons. No corpse shall be interred in a lot, except the corpse of one having an interest therein, or a relative, or the husband or wife of such person, or his or her relative, except by the consent of all persons having an interest in the lot.
- (e) **Rights of Interment.** Unless otherwise directed in writing and filed with the City Clerk, the lot owner, his/her devisees, or his/her heirs, the cemetery will permit the interment of members of his/her family at the request of any interested person upon proof of eligibility for burial as follows:
 - (1) The surviving spouse of the lot owner shall have the first right to interment or to direct the right of interment.
 - (2) When there is no surviving spouse, the devisees, or heirs of the owners, may, by agreement in writing, determine who among them shall have the right of interment or direction for interment, which agreement shall be filed with the City Clerk.
 - (3) In the event the owner, his/her devisees or heirs shall not have arranged for future interments, then the devisees or the heirs, as the case may be, of such owner, shall have the right to interment in order of their need.
- (f) **Ownership Change Upon Death.** All burial rights in cemetery lots purchased from the City occupy the same position as real estate at the death of the owner. Only such persons whose names appear on the cemetery records of the City will be recognized as owners or part owners of lots. In case of the death of a lot owner, when the lot is disposed of by a will, and when ownership is to be determined, a certified copy of the will must be delivered to the City Clerk before the City will recognize the change of ownership. If the deceased lot owner left no will, satisfactory proof of descent must be provided. It is recommended that lot owners, in making their wills, include a provision covering the cemetery lots and devise same to one (1) person.

- (g) **Lot Resale or Transfer.** Lot owners may not resell or transfer their lots or parts of lots except as outlined below:
- (1) The City Clerk shall enter in the record kept for that purpose all deeds of transfer and reconveyance of cemetery lots. No such reconveyance shall be received and recorded by the City Clerk until a fee per Sec. 1-3-1 shall have been paid therefor.
 - (2) Said fee shall go into the General Fund.
 - (3) Reconveyance of lots or parts of lots may be made only by written application therefor upon blanks furnished by the City Clerk. Such application shall be executed by the owner(s) of the lots, or if the owner(s) is deceased by the legal heirs. The application shall state the lot and block number.
- (h) **Use of Repossessed Lots.** Whenever possible, repossessed lots will be used for burials before new areas of the cemetery are used or platted.

Sec. 8-4-4 Perpetual Care of Lots.

- (a) **Maintenance By City.** All maintenance expenses for the cemetery and the graves therein shall be provided in perpetuity by the City of Washburn.
- (b) **Fees.** The Common Council shall, from time to time, establish fees for the sale of cemetery lots, which shall include an amount to be determined by the Council to contribute to the care of the cemetery and the lot, but no separate fee shall be charged for perpetual care, and no separate care fund shall be established or funded.

Sec. 8-4-5 Privileges and Restrictions.

- (a) **Approval of Grading, Landscaping and Shrub/Tree Planting.** All grading, landscape work and improvements of any kind and all trees, shrubs and herbage of any kind shall be allowed to be planted, trimmed, cut or removed only by the Cemetery Committee or Sexton, or under the supervision of the Committee or Sexton. All improvements or alterations of individual property in the cemetery shall be under the direction of and subject to the consent, satisfaction and approval of the Cemetery Committee or Sexton; and should they be made without their consent, the Cemetery Committee or Sexton shall have the right to remove, alter or change such improvements or alterations or, in any event, at any time, in their judgment they become unsightly to the eye or interfere with the regular upkeep of the cemetery.
- (b) **Lot Markers.** Each lot in the cemetery will, prior to sale, be suitably marked by the City with a metal, brick or concrete post placed on each lot corner and set level with the adjacent ground. To maintain accuracy and uniformity of marking, substitutes or additional cornerposts may be used only if approved by the City.

- (c) **Grave Mounding.** No mound shall be raised upon any grave above the general level of the lot.
- (d) **Lot Enclosures.** No hedges, fences or enclosures of any kind will be permitted on or around lots.
- (e) **Artificial Flowers.** All artificial flowers displayed in the cemetery must be in containers and placed at the head of the grave lot. Any artificial flowers not in containers will be removed from the cemetery by the Sexton.
- (f) **Wreaths.** Wreaths on wire stands must be placed at the head of the lot.
- (g) **Cut Flower Containers.** Containers for cut flowers are to be a type level with the ground surface and not holding water when not in use or of the type to be disposed of when the flowers are removed. Planted flowers and shrubbery on individual lots may only be planted by approval of the Cemetery Committee and/or Sexton. No glass container are permitted in the cemetery.
- (h) **Potted Plants.** Potted plants may be set on lots, without disturbing the sod, on special occasions, such as Memorial Day, birthday, anniversary, etc., but if not removed will be picked up and destroyed if unsightly or preserved for use in the cemetery beds if suitable.
- (i) **Removal Authority of Cemetery Committee.** The Cemetery Committee shall have the authority to remove all floral designs, flowers, weeds, trees, shrubs, plants or herbage of any kind now growing in the cemetery that, in the judgment of the Committee, becomes unsightly, dangerous, detrimental to another lot owner or where they do not conform to the standards to be maintained. The Cemetery Committee also reserves the right to prevent the removal of any flowers, floral designs, trees, shrubs or plants or herbage of any kind unless it gives its consent.
- (j) **Trees and Shrubs.** Any trees, shrubs or herbage of any kind now planted in the cemetery and which is not of the approved type of tree, shrub or herbage must be removed by the lot owner, or the Cemetery Committee or Sexton has the full right to have such tree, shrub or herbage removed without further notification to the lot owner. [Unapproved trees are all varieties, excluding the arbor vitae or a special tree/shrub which will not grow more than three and one-half (3-1/2) feet in width at its base or has the approval of the Cemetery Committee.]
- (k) **Floral Frames.** Floral frames when removed from the lot site, unless called for within five (5) days by those lawfully entitled to them, may be disposed of by the Sexton.
- (l) **Consultations With Committee.** All landscaping, care of lots and other work in the cemetery will be done by the City, but it is desired that each lot owner feel free to consult with those in charge of the cemetery at all times. Their advice will be given without charge and may be of value to those contemplating the purchase of or improvements to cemetery lots.
- (m) **City Right of Entry.** The City of Washburn reserves the right for its workers and those persons necessary to the performance of normal cemetery operations to enter upon or cross over any lot in the performance of such duties.

- (n) **City Non-Liability.** The City of Washburn, or its employees, assumes no liability for damages to property or of person, or for physical or mental suffering arising out of performance of its normal operations, or for loss by vandalism or other acts beyond its reasonable control.
- (o) **City Right to Alter Cemetery.** The City of Washburn reserves the right to alter, change or close alleys, roadways, water mains and other physical public properties of the cemetery.

Sec. 8-4-6 Rules for Visitors.

- (a) **Hours.** The cemetery will be open to visitors during posted hours.
- (b) **Eating/Drinking in Cemetery.** Persons or picnic parties with refreshments or alcoholic beverages are not permitted within the cemetery.
- (c) **Dogs.** Dogs will only be allowed in the cemetery when confined in a vehicle.
- (d) **Firearms.** Firearms will not be allowed in the cemetery except in conjunction with military funerals or when permitted by state law. At all other times, firearms, bows and arrows, sling shots and other like articles will not be permitted.
- (e) **Conduct in Cemetery.** Visitors are required to use the walks and drive whenever possible and shall not pick any flowers (either wild or cultivated); injure any shrub, tree or plant; or mar or deface any monument, stone or structure in the cemetery.
- (f) **Vehicle Speed.** Vehicles traveling within the cemetery shall not exceed fifteen (15) miles per hour.
- (g) **Limits on Certain Vehicles.** No riding of bicycles, motor bikes, snowmobiles, motorcycles, all-terrain vehicles or in-line skates or play vehicles will be allowed in the cemetery unless such vehicles are present in conjunction with cemetery business. As used in this Section, a play vehicle shall mean any coaster, skateboard, roller skates, in-line skates, sled, toboggan, unicycle, or other play/toy vehicle upon which a person may ride.
- (h) **Horses.** Horses are not permitted in the cemetery.

Cross-Reference: Section 11-3-5.

Sec. 8-4-7 Interments.

- (a) **Seasonal Vault Use.** Use of the storage vault building is preferred from November 15th to April 15th, with burials as weather and conditions permit.
- (b) **State Regulations.** All interments shall conform to the Wisconsin State Board of Health specifications.
- (c) **Grave Excavations by City.** All graves shall be dug by the City under the direction of the Sexton or his/her authorized agent.

- (d) **Grave-Related Charges.** A charge for opening and closing a grave, including the sodding and seeding of the plot, will be made at a current rate set by the City. Said charge will be paid to the City Clerk-Treasurer prior to performance of the service. No burial will be allowed until all fees have been paid to the City Clerk-Treasurer and an authorization has been issued. This authorization must be presented to the Sexton.
- (e) **Required Grave Location Information.** The lot owner or funeral director shall designate on the interment form the location of the graves on the lot to the Sexton and any change in location made after the opening of a grave has begun shall be at the expense of the lot owner. When definite information for locating a grave is not available thirty-six (36) hours prior to grave preparation to meet the time requested for interment, the cemetery officials may exercise their best judgment in making a location order that the requested time for interment may be met. The cemetery assumes no responsibility for any error or inconvenience of such location and an additional charge will be made for any change requested.
- (f) **Work Notices.** The Sexton or his/her agent shall, whenever possible, be given thirty-six (36) hours' notice to assure the opening and preparation of a grave prior to interment. Barring unforeseen or other untoward circumstances, such grave shall be opened and prepared in time for interment.
- (g) **Scheduling of Burials.** When several burials occur in a one (1) or two (2) day period, said burials may be scheduled at the discretion of the Sexton, but in a prompt and efficient manner.
- (h) **Funeral Flowers and Wreaths.** There will be no responsibility on the part of the City of Washburn for the protection and maintenance of flowers, wreaths, emblems, etc., used in conjunction with funerals.
- (i) **Interments of Multiple Bodies; Animal Burials Prohibited.**
 - (1) The interment of two (2) bodies in one (1) grave will not be allowed, except in the case of a mother and infant, twin children, or two (2) children buried at the same time, or in special circumstances with the approval of the Sexton or his/her agent. Two (2) cremains may be buried on one lot. Only two (2) markers will be allowed on grave space of which one shall be flush with the ground and of a size which meets the approval of the Sexton.
 - (2) Interments of animals are not permitted.
 - (3) More than one (1) cremains may be buried in a single grave space. Only two (2) markers will be allowed on a grave space of which one (1) shall be flush with the ground and of a size which meets the approval of the Sexton.

Sec. 8-4-8 Disinterments.

- (a) **City to Perform.** Disinterments of bodies from graves in the cemetery will be made only by the City in accordance with the requirements of the State Board of Health. Charges set by the City for removal must be paid in advance.

- (b) **Required Permits.** Lot owners, or their heirs, desiring graves to be opened may secure the necessary disinterment permit from the State and deliver the same to the Cemetery Sexton. All removals will be made by the City under the supervision of a licensed embalmer.
- (c) **Official Investigation Inspections.** For sanitary reasons, graves will not be reopened for inspection except for an official investigation.

Sec. 8-4-9 Monuments and Markers.

- (a) **Number.** No more than one (1) monument or marker may be erected above ground level for two (2) side-by-side graves in a standard lot, or for three (3) side-by-side graves in an end lot. All other markers must be installed at ground level.
- (b) **Pre-Existing Multiple Monuments/Markers.** Present lot owners having more than one (1) monument or marker above ground level must lower to ground level all but one (1) monument or marker now erected above ground level. If no marker leveling has been done by said lot owner, the Cemetery Committee and Sexton have the full right and authority to lower all markers to ground level. On lots where there are no known survivors and such lots are not under perpetual care, the Cemetery Committee and Sexton have full authority to bring said lots up-to-date as per regulations. All lots where there are no known survivors and such lots being on perpetual care, the Committee and Sexton have full authority bring said lots up-to-date as per regulations. All lots with perpetual care are also governed by said regulations.
- (c) **Prohibited Curbing and Enclosures.** No coping, curbing, fencing, hedging, grave mounds, borders or enclosures of any kind shall be allowed around or on any lot; and no walks of brick, tile, stone, marble, terra cotta, sand, cement, gravel, wood or other material shall be allowed on any lot. The Cemetery Committee reserves the right to remove the same if so erected, planted or placed.
- (d) **Setting of Foundations and Markers.** Grave markers and foundations will be set only by the monument company according to regulations specified by the City, and only after a Placement Permit is obtained from the Sexton and a permit fee, established by the Common Council, is paid. Except as herein otherwise provided, under no conditions will the City construct monument or marker bases or erect monument or markers on bases. The City reserves the right to require the construction of a foundation of such size, material and design as will provide ample insurance against settlement or injury to the stone work. The top of the concrete foundation will be constructed flush with the ground line. Whenever possible, all markers will be set with a five (5) inch margin.
- (e) **Supervision by Sexton.** The setting of monuments, stones and markers and the transportation of all tools, materials, etc., within the cemetery grounds shall be subject to the supervision and control of the Sexton. Whenever possible, at least twenty-four (24)

hours' notice shall be given to the Sexton that said work is to take place. Heavy trucking will not be permitted within the cemetery when, in the opinion of the Sexton, such work might cause damage to the driveways. Except when special permission is obtained, all work as outlined above shall be completed and debris removed immediately.

- (f) **City's Right to Reject Monuments.** The City reserves the right to refuse permission to erect any monument work not in keeping with the good appearance of the grounds. The size of the monument and/or stone work must be given to the Sexton or his/her agent and approved before said work will be permitted on a lot. All monuments must be set in line with other monuments so far as possible as directed by the Cemetery Sexton or his/her assistant.
- (g) **Sexton Permission for Removal.** Stone work or monumental work, once placed on its foundation, shall not be removed, except by permission of the Sexton.
- (h) **Fees To Be Paid.** The lot must be paid in full before markers and monuments are set or any burial is authorized by the Sexton.
- (i) **Temporary Markers.** Temporary markers must be removed or replaced with a permanent marker within one (1) year.

Sec. 8-4-10 Vaults and Mausoleums.

Construction of any above-ground vaults or mausoleums is prohibited. Underground vaults, of concrete or steel, shall be required for all grave openings that measure twenty-six (26) inches wide by sixty-four (64) inches long or larger.

Sec. 8-4-11 Miscellaneous Cemetery Regulations.

- (a) **Information.** Prospective lot purchasers may visit the cemetery for information without obligation. Lot owners are encouraged to contact the City Clerk at any time if the meaning and intent of these regulations is unclear or if other information is desired during the normal business hours.
- (b) **Fee Schedule.**
 - (1) All fees and charges as outlined in the current schedule are payable at the Office of the City Clerk where receipts will be issued for the amounts paid.
 - (2) A schedule of the fees and charges as established by the Common Council shall be on file in the Office of City Clerk. Such schedule may change from time to time without advance notice to conform with current economic conditions.

Sec. 8-4-12 Definitions.

The following definitions shall be applicable in this Chapter:

- (a) **Grave.** A burial site allowing interment as provided in this Chapter.

- (b) **End Lot.** A lot located at the end of a cemetery block, containing space for nine (9) graves.
- (c) **Side-by-Side Graves.** Graves which are contiguous on their long sides.
- (d) **Standard Lot.** A lot, other than an end lot, containing space for six (6) graves.

CHAPTER 5

Application of Pesticides

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SEC. 8-5-1 DEFINITIONS.

The following definitions shall be applicable in this Chapter:

- (a) **Person.** Any individual, group of individuals, partnership, association, corporation, government, government agency, or other combinations of entities.
- (b) **Pesticide.** Any substance or mixture of substances labeled or intended for use or used for:
 - (1) Preventing, destroying, repelling, or mitigating any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, or other microorganism (except viruses, bacteria or other microorganisms on or in living persons or other living animals) declared to be a pest under federal law (7 U.S.C. Section 136 et seq., and regulations issued under those laws); or
 - (2) Defoliating plants, inhibiting plant growth or accelerating the drying of plant tissue.
- (c) **Commercial Applicator.** Any person, or agent or employee of any such person in any business activity in which pesticides are applied in exchange for compensation, either directly or indirectly, for such application.
- (d) **Non-Commercial Applicator.** Any person, or agent or employee of any person, who is not a residential applicator and who applies pesticides to property owned, managed, controlled or occupied by that individual or entity. It includes any employee or representative of the municipality who uses pesticides for any purpose on behalf of the municipality.
- (e) **Residential Applicator.** Any person who applies pesticides for non-commercial purposes within their place of residence excepting within twenty (20) feet of their property line.
- (f) **Aerial Application of Pesticides.** The release of pesticides from any aircraft.
- (g) **Public Lands.** All lands and all interests in lands owned by the state, the County of Bayfield, township or municipality either as proprietor or as trustee, which are dedicated in whole or in part to public use and benefit.
- (h) **Private Lands.** All lands which are not public lands.
- (i) **Sensitive Areas.** All lands within three hundred (300) feet of lands incorporating schools, daycare centers, hospitals, medical clinics, nursing homes, playgrounds, parks or similar public areas or facilities, navigable waterways, public wetlands and residences of those identified as chemically-sensitive.

SEC. 8-5-2 NOTICE OF INTENT TO APPLY PESTICIDES.

- (a) No person excepting residential applicators may apply any pesticide to public lands, to private lands subject to public use or to sensitive areas within the corporate limits of the City of Washburn, or may aerially apply any pesticide to public lands or private lands within the City of Washburn except upon first filing with the office of the City Clerk of Washburn within thirty (30) days of said application a Notice of Intent to Apply Pesticides. Said notice shall include or be accompanied by the following information:
 - (1) The name, address and telephone number of the owner of the property upon which pesticides are to be applied as well as the name, address and telephone number of the applicator, if different from the owner.
 - (2) A locational description of the property sufficient to identify where pesticides will be applied.
 - (3) Product labels and Material Safety Data Sheets, or photographic copies thereof, for each pesticide to be applied.
 - (4) The method of application for each pesticide to be applied.
 - (5) The approximate dates and frequency of application of each pesticide.
 - (6) For commercial applicators, a copy of their current state license.
- (b) Notice of intent to apply pesticide forms will be made available through the office of the Washburn City Clerk.
- (c) Land owners and applicators are jointly responsible for compliance with the requirements of this Section.

SEC. 8-5-3 OUTDOOR APPLICATION.

- (a) No applicator of pesticides shall apply any pesticide in the outdoor environment when weather conditions such as wind or rain would likely cause such pesticide to drift on to adjoining property. Aerial applicators shall maintain at least a two hundred (200) foot buffer zone around adjoining properties where no direct aerial application can occur.
- (b) Whenever pesticides are to be applied to any public or private lands or sensitive areas which are subject to this Chapter, such applicators shall post warning signs that meet the requirements of Subsections (d) and (e) herein at least forty-eight (48) hours prior to application and shall be left in place for at least seventy-two (72) hours after actual application or until expiration of any time of safe reentry as indicated by the pesticide label, whichever is longer.
- (c) Posting is not required if pesticides are to be applied to an area that is sufficiently fenced or secured to prevent access to anyone other than the owner or occupier of the property.
- (d) All signs required under this Section relating to outdoor application shall be at least eight and one-half by eleven inches (8-1/2" X 11") in size. Signs shall be attached to the upper portion of a dowel or other supporting device so that the bottom of the sign is not less than twelve (12) inches at the top of the sign and is not more than forty-eight (48) inches above the ground. The signs shall be of rigid material substantial enough to be easily read for at least the length of time required after application under Subsection (b) in all weather conditions.
- (e) All signs under this Section shall be professionally printed with red lettering and a white background. The signs shall contain the universal symbol depicting an adult, child and pet in a circle with a diagonal line across. The signs shall have

lettering not less than one-half (1/2) inch in height. All outdoor signs shall bear the words "Warning -- Pesticide Application, For More Information Call _____." The person whose number is listed on the signs shall maintain the information set forth in Section 8-5-2 to be provided to any person who inquires about the pesticide application. Outdoor signs shall be posted at regular intervals along the boundaries of the affected land, at least one sign for each one hundred (100) feet of boundary and in addition at common points of entry.

- (f) Highway, power line, and pipe line rights-of-way would need to be posted every one-fourth (1/4) mile.
- (g) The pesticide applicator is responsible for compliance with the posting requirements under this Section.

SEC. 8-5-4 INDOOR APPLICATION.

- (a) When there is indoor application of pesticides in a residential building containing two (2) or more residential rental or condominium units, the owner, manager or landlord shall notify the occupants by notice on the principal entrances to the residential portions of such building and in any or all areas commonly used by tenants and employees at least forty-eight (48) hours prior to application. Whenever pesticides are to be applied in individual rental or condominium units in a residential building, the owner, landlord or manager shall provide notice to the occupant by mail or by placing a notice under the door of such unit at least forty-eight (48) hours prior to application.
- (b) The notice shall include the statement "Warning -- Pesticide Application" and shall state the names of the applicator, the date of application, and a phone number of either the applicator or the owner, landlord or manager for the residential tenant or occupant to receive more information. The person whose number is listed on this notice shall maintain the information set forth in Section 8-5-2 to be provided to any person who inquires about the pesticide application.
- (c) All signs and notices related to indoor application shall be at least four by five inches (4" X 5") with lettering not less than three-eighths (3/8) inch in height. They shall be professionally painted with red lettering and a white background. They shall contain the universal symbol depicting an adult, a child, and a pet in a circle with a diagonal line across.

SEC. 8-5-5 NOTIFICATION OF CONCERNED INDIVIDUALS.

- (a) The office of the City Clerk of Washburn shall maintain a registry which shall list all persons who request advanced notice of pesticide application by commercial or non-commercial applicator. This registry shall record the names, addresses and requests of:
 - (1) Persons who request preapplication notice of any pesticide application to any property owned by that person if a sufficient description of said property is maintained with the registry.
 - (2) Individuals who are medically-sensitive to pesticides and who request preapplication notice of any pesticide application within one thousand (1,000) feet of their residence.

- (b) Concerned individuals shall maintain current and adequate addresses and property descriptions or their names will be removed from the registry.
- (c) Concerned individuals shall be entitled to preapplication notice through December 31st of the year in which they make their request.
- (d) At least twenty-four (24) hours prior to pesticide application, all commercial and non-commercial applicators should provide notice to all persons indicated by this registry as falling under the requirements of Subsection (a) in relation to specific application(s). The notice shall state the name, address and telephone number of the applicator, the location of the property due to have pesticide applied, the date and time of application(s), and the pesticides expected to be applied. The applicator is also responsible for supplying the information as indicated in Section 8-5-2 upon request.
- (e) Fulfilling this requirement shall not relieve the applicator of any requirements for prior notification imposed by state or federal law or other Sections of this Chapter.

SEC. 8-5-6 EMERGENCY SITUATIONS AND EXEMPTIONS.

- (a) **Exempted Property.** The City of Washburn may exempt from some or all requirements of this Chapter certain property upon a showing by the applicator or property owner seeking the exemption that the potential for any adverse effect upon the public or to adjoining property is minimal, and compliance with the terms of this Chapter is highly burdensome or impractical. The Common Council must consider the following factors before granting an exemption from any or all of the requirements of this Chapter:
 - (1) Whether the area to which pesticides are to be applied is sufficiently removed from residence or other places frequented by the public so that the potential of drifting airborne chemicals poses no real danger to persons or property.
 - (2) Whether access to the area to be exempted is sufficiently restricted or remote that members of the public are unlikely to come into contact with pesticides applied to exempted area.
 - (3) Whether the type of pesticide application to be performed is so highly controlled or so extremely localized that it is highly unlikely the application will expose other persons to the pesticides during or after application.
- (b) **Emergency Situations.** Time frames for notice and posting requirements under this Chapter shall not apply to any applicator who makes an appropriate showing to the Common Council that emergency conditions warrant exemption from these requirements. Emergency situations shall be defined by the Common Council and shall be limited to those cases where the application of pesticides is needed to control a life-threatening situation or a situation which poses an imminent threat of serious injury to persons, property or agriculture.
- (c) **Notice.** Upon emergency application of pesticides, posting and notice in conformity with this Chapter shall take place contemporaneously with or as soon after application as practicable.

SEC. 8-5-7 PREPARATION, STORAGE AND DISPOSAL.

- (a) Wholesale and retail establishments within the corporate limits of the City of Washburn who offer for sale pesticide products currently registered by the EPA for use in the United States shall post a copy of the applicable parts of this

Chapter for residential use as part of the display of pesticide products for sale. A copy of this posting may be obtained from the office of the City Clerk.

- (b) No person shall prepare, transport, store or dispose of any pesticide or pesticide container in such a manner as to cause injury to human beings, vegetation, crops, livestock or other animals or so as to contaminate any surface water or ground water.
- (c) No person shall fail to comply with the safety precautions recommended by the manufacturer of the pesticides in preparation, use, storage or disposal of pesticide or pesticide container.
- (d) No person shall flush, dump or dispose of any pesticide or pesticide container in any City of Washburn sanitary sewer, storm sewer, ditch or lake.

SEC. 8-5-8 PENALTIES AND ENFORCEMENT.

Any person who violates any of the provisions of this Chapter or directs another to violate it shall, in addition to being liable for all damages resulting from each violation, be subject to forfeiture as prescribed by Section 1-1-7. Each day shall constitute a separate violation.