

## CHAPTER 5

### NUISANCE

#### 5.01 NUISANCES PROHIBITED.

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance with the Town of Lisbon.

#### 5.02 NUISANCES DEFINED.

(a) General.

(1) A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

(2) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public.

(3) In any way render the public insecure in life or in the use of property.

(4) Greatly offend the public morals or decency.

(5) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way.

(b) Public Nuisances Affecting Health.

The following acts, omissions, place, conditions and things are hereby specifically declared to be public health nuisances, but shall not be construed to exclude other health nuisances coming within the definition of subsection (a) of this section:

(1) All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.

(2) Carcasses of animals, birds, or fowl not buried or otherwise disposed of in a sanitary manner within 24 hours after death.

(3) Accumulations of decayed animal or vegetable matter, trash, paper boxes, rubbish, rotting lumber, bedding, packing material, scrap metal.

(4) All stagnant water in which mosquitoes, flies, or other insects can multiply.

(5) Privy vaults and garbage cans which are not fly-tight.

(6) All noxious weeds and other rank growth of vegetation.

(7) All animals running at large.

(8) The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the town in such quantities as to endanger the health of persons of ordinary sensibilities or threaten or cause substantial injury to property.

(9) The pollution of any stream or body of water by sewage, creamery or industrial wastes or other substances.

(10) Any use of property, substances or things within the town emitting or causing any foul, offensive, noisome, nauseous, noxious, or disagreeable odors, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the town.

(11) All abandoned wells not securely covered or secured from public use.

(12) Any obstruction in or across any watercourse, culvert, drainage ditch, swale, or ravine.

(13) The deposit of garbage, rubbish or any offensive substance on any street, highway or public place, or on any private property except as may be permitted by ordinance.

(c) Public Nuisances Offending Morals and Decency.

The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of subsection (a) of this section.

(1) Any place or premises within the Town of Lisbon where town ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.

(2) Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State of Wisconsin or any ordinances of the Town of Lisbon.

(d) Public Nuisances Affecting Peace and Safety.

The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of subsection (a) of this section.

(1) All signs and billboards and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.

(2) All buildings, erected, repaired, or altered within the Town of Lisbon in violation of the Town of Lisbon building codes.

(3) All unauthorized signs, signals, markings or devices which purport to be or may be mistaken as official traffic control devices placed or maintained upon or in view of any public highway or railway crossing.

(4) All trees, hedges, billboards, or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of the traffic when approaching an intersection or pedestrian crosswalk.

(5) All limbs of trees which project over a public street, less than 10 feet above the surface thereof.

(6) All use or display of fireworks except as provided by the laws of the State of Wisconsin or Town of Lisbon.

(7) All building or structures so old, dilapidated, or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.

(8) All wires over streets, alleys or public grounds which are strung less than 15 feet above the surface of the street or ground.

(9) All loud, discordant and unnecessary noises or vibrations of any kind.

(10) The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the Town of Lisbon.

(11) All obstructions of streets, alleys, or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the Town of Lisbon or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable length of time after the purpose thereof has been accomplished.

(12) All open and unguarded pits, wells, excavations, or unused basements freely accessible from any public street.

(13) All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.

(14) Any unauthorized or unlawful use of property abutting on a public street or alley or of a public street or alley which causes large crowds of people to gather, obstructing traffic, and free use of such street or alley.

(15) Repeated or continuous violations of the ordinances of the Town of Lisbon or laws of the State of Wisconsin relating to the storage of flammable liquids.

(16) Any condition or practice constituting a fire hazard.

(17) Any advertisements or signs affixed to any building or wall, fence, street or other private of public property without permission of the owner thereof.

(18) Any nuisance so defined by the Wisconsin Statutes.

### **5.03 ABATEMENT OF PUBLIC NUISANCES.**

(a) Inspection of Premises.

Whenever a complaint is made to the Town Board or any member thereof that a public nuisance exists within the Town of Lisbon, he shall promptly notify the Health Officer or Building Inspector or other town official who shall forthwith inspect or cause to be inspected the premises and shall make a written report of his findings to the Town Board.

(b) Summary Abatement; Notice to Owner

If the inspecting officer shall determine that a public nuisance exists on private property and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Town Board may direct the Town Health Officer or Building Inspector or other town official to serve notice on the owner or, if the owner cannot be found, on the occupant or person causing, permitting or maintaining such nuisance and to post a copy of such notice on the premises. Such notice shall direct the owner, occupant, or person causing, permitting or maintaining such nuisance to abate or remove the nuisance within 24 hours and shall state that unless such nuisance is so abated, the Town Board will cause the same to be abated and will charge the costs thereof to the owner, occupant, or person causing, permitting or maintaining the nuisance, as the case may be.

(c) Abatement by the Town.

If the nuisance is not abated within the time provided or if the owner, occupant, or person causing the nuisance cannot be found, the Health Officer, in case of health nuisances, and the Building Inspector in other cases, or other designated official shall cause the abatement or removal of such public nuisance.

(d) Abatement by Court Action.

If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall file a written report of his findings to the Town Board, who shall cause an action to abate such nuisance to be commenced in the name of the town in the Circuit Court of Waukesha County in accordance with the provisions of Chapter 280 of the Wisconsin Statutes.

(e) Other Methods not Excluded.

Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the Town of Lisbon in accordance with the laws of the State of Wisconsin.

## 5.04 COST OF ABATEMENT.

In addition to the penalty imposed by chapter 1 of this code for the erection, contrivance, creation, continuance, or maintenance of a public nuisance, the cost of abating the public nuisance by the Town of Lisbon shall be collected as a debt from the owner, occupant, or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as other special taxes.

## 5.05 WEEDS

### (a) Public Policy.

It is hereby declared necessary in the interest of public safety and welfare that the cutting of grass and noxious weeds be regulated in the Town of Lisbon between May 1 and November 1 because of the fire hazards that are involved and the danger to persons and property that result therefrom.

### (b) Definition.

The term "Noxious Weeds" as used in this section includes the following: All types of thistles; ragweed, marijuana that is not grown or cultivated for lawful commercial purposes; English charlock or wild mustard; Field Bind weed, commonly known as creeping Jenny; goat's beard; harmful barberry; field dodder; Indian mustard; Oxeye daisy; snapdragon or butter and eggs; poison ivy; leafy spurge; burdock; yellow rocker; quack or quitch grass; goldenrod and pigweed.

### (c) Cutting of Grass and Noxious Weeds.

No person owning land in the Town of Lisbon shall:

(1) Allow any grass to grow to a height in excess of one foot, nor within 100 feet of any one-family, two-family or multiple dwelling, as those terms are defined in the Zoning Code of the Town of Lisbon;

(2) Allow any noxious weeds to grow on any property located in the Town of Lisbon.

It shall be the duty of any owner to cut grass and to cut and destroy noxious weeds within the area described herein.

In the event such grass and noxious weeds are not cut as required by this section, the Weed Commissioner shall, after first giving 5 days written notice by mail to the owner or occupant of the property, destroy or cause all such weeds to be destroyed, in the manner deemed to be the most economic method. For each day devoted to doing so, the Weed Commissioner shall receive compensation as determined by the Town Board from time to time. The Weed Commissioner shall present to the Town Treasurer an account of his activities, verified by oath and approved by the Town Board. Such account shall specify by separate items the amount chargeable to each piece of land, describing the same, and shall after being paid by the Town Treasurer, be filed with the Town Clerk who shall enter the amount chargeable to each tract of land in the text tax roll in a column headed "for the destruction of weeds," as a tax on the lands upon which such weeds are destroyed, which tax shall be collected as other taxes are, or as taxes are collected on personal property pursuant to [Section 74.11, Wisconsin Statutes](#), except in case of lands which are exempt from taxation in the usual way. In the case of railroad or other lands not taxed in the usual way, the amount chargeable against the same shall be certified by the Town Clerk to the State Treasurer.

### (d) Services by Fire Department.

In the event a fire occurs in an area where the grass and noxious weeds have not been cut as required by this section which requires the service of the Town Fire Department to control the same, the owner shall be liable to the town for all costs and expenses incurred by such fire and shall be liable to the town for all costs and expenses incurred by such fire and shall pay the cost upon written notice from the Town Clerk as to the amount thereof. In the event such payment is not made within 30 days from notice of the Town Clerk, the amount thereof shall be placed upon the tax roll and assessed against the real estate upon which the fire occurred and collected by the town at the next succeeding tax collection.

## 5.06 ABANDONED VEHICLES.

### (a) Definitions.

Terms used in this section mean as follows:

**Motor vehicle:** A vehicle which is designed for operation on land, which is self-propelled and can be used for transporting people or materials, and including but not limited to automobiles, trucks, buses, motorized campers, motor vehicles, motorcycles, motor scooters and tractions

**Junked motor vehicles:** Any motor vehicle which has been wrecked or damaged in such a manner that it cannot safely or legally be operated.

**Non-operable motor vehicle:** A motor vehicle, parts of which have been removed from the said motor vehicle rendering the same incapable of being safely or legally operated.

**Abandoned motor vehicle:** A motor vehicle which through disuse and failure to be used remains in one location for a period of 15 consecutive days, or more, or a motor vehicle which has been reported as stolen to any law enforcement agency. A motor vehicle shall not be considered an abandoned motor vehicle when it is out of the ordinary public view.

**Dismantled motor vehicles:** Any motor vehicle which has parts, accessories or equipment removed therefrom so that the same cannot be operated legally upon any highway.

**Wrecked motor vehicle:** Any motor vehicle which has been damaged by collision either with a motor vehicle or a stationary object and parts of which are bent, broken or unattached so that it is rendered incapable of being safely or legally operated.

**Equipment:** Any part of a motor vehicle or any accessories for use thereon which affects the safety or operation of such motor vehicle, or the safety of the occupants herein.

**Private property:** Any real property not owned by the federal government, state government, Town of Lisbon or other political subdivision.

**Removal:** The physical relocation of a motor vehicle and accessories or equipment.

**Discarded motor vehicle:** A motor vehicle placed upon public or private property without the permission or knowledge of the owner of such property and a motor vehicle the ownership of which the real estate owner is unaware.

**Junk:** Old iron, chain, brass, copper, tin, lead, other base metals, trailers, farm machinery and equipment or any parts thereof to be junked or demolished, taken apart or destroyed for salvage materials, paper, waste paper, used lumber or building material, paper clippings, rags, rubber, glass or bottles, and all articles and things discarded as manufactured articles composed of or consisting of any one or more of the articles mentioned, including industrial metal or scrap or other material commonly included within the term junk.

**Trash:** Any rubbish, ashes, paper, discarded bricks or building material, tin cans, boxes, barrels, discarded wood and lumber, brush and any form of discarded vegetation, foundry sand, and industrial, commercial or residential waste of any kind or description.

### (b) Accumulation or Storage of Junk and Trash.

No person shall accumulate or store, or permit the accumulation or storage of, any junk or trash upon any property in the Town of Lisbon except where a permit has been granted by the Town Board pursuant to ordinances of the Town of Lisbon.

### (c) Storage of Dismantled or Partially Dismantled or Abandoned, Junked, Wrecked, Non-Operable or Discarded Motor Vehicle, or Motor Vehicle Accessories or Equipment Regulated.

No person owning or having possession of any dismantled or partially dismantled or abandoned, junked, wrecked, no-operable or discarded motor vehicle, or motor vehicle accessories or equipment, shall store or permit to be stored any such dismantled, partially dismantled, abandoned, junked wrecked, non-operable or discarded motor vehicle or any such accessories or equipment on any private property in the Town

of Lisbon for a period of more than 15 consecutive days and no person owning any private property in the town, as determined from the tax assessment records of the town shall store or permit to be stored or to remain any such vehicle or accessories on such private property for more than 15 consecutive days. Such storage is hereby declared to be a public nuisance and may be abated or removed and penalties imposed as provided by this code.

(d) Exemptions.

This section shall not apply to the following.

(1) Automobile sales or repair enterprises operated in a properly zoned area for such enterprises and provided that inside storage is provided for such motor vehicles.

(2) Vehicles kept or stored on private property in a garage or other accessory building which conforms to the town zoning ordinances.

(e) Enforcement

Any person shall be deemed to have violated this section at the expiration of 10 days after having been provided with notice of violation by the Police Department. Notice of violation shall state that the violation of this section has occurred and shall be directed to the owner or occupant of the real estate upon which the motor vehicle and accessories or equipment are located. This notice shall indicate that the motor vehicle or motor vehicle accessories or equipment will be in violation if permitted to remain on the property for more than 10 consecutive days from the date of the notice, and shall be served upon or sent by certified mail to the owner of the real estate upon which such motor vehicle or motor vehicle accessories or equipment is located as shown on the tax assessment records of the Town of Lisbon. The notice shall give the owner of the real estate upon which the motor vehicle or motor vehicle accessories or equipment is located, notice that such motor vehicle or motor vehicle accessories or equipment must be removed within 10 days after service of the notice.

(f) Removal Controlled.

No person, after notification has been given pursuant to this section to remove any dismantled, partially dismantled, abandoned, junked, wrecked, non-operable or discarded motor vehicle, or motor vehicle accessories and equipment from any private property, shall move the same to any other private property upon which such storage is not permitted or on to any public highway, municipal property or public property.

If any dismantled, partially dismantled, abandoned, junked, wrecked, non-operable or discarded motor vehicle, or motor vehicle accessories and equipment is removed for compliance with this action after receiving a proper notice and is subsequently returned to the same location, such action will constitute an immediate violation and the Police Department shall cause the immediate removal of such items, with the costs incurred to be charged against the owner of the property on which the violation occurs.

(g) Removal Enforced.

If the dismantled, partially dismantled, abandoned, junked, wrecked, non-operable or discarded motor vehicle or motor vehicle accessories or equipment are not removed within the period fixed for such removal, the Police Department is hereby authorized to provide for the removal thereof by town equipment, or they may requisition at town expense, a private towing company to remove the motor vehicle, or motor vehicle accessories or equipment. In the event the Police Department determines that such motor vehicle or motor vehicle accessories or equipment have a value in excess of \$100, they shall retain such motor vehicle or motor vehicle accessories or equipment in storage for a period of 7 days after certified mail notice has been sent to the owner and lien holders of record to permit reclamation of the motor vehicle or motor vehicle accessories or equipment after payment of the accumulated charges. Thereafter the Police Department may dispose of the same in any manner they see fit including the direct sale thereof to a licensed salvage dealer upon determination that the vehicle is not reported stolen. In the event that the Police Department determines the motor or motor vehicle accessories or equipment have a value of less than \$100 the same may be summarily disposed of by the Police Department by direct sale upon determination that the vehicle is not reported stolen and that storage of such vehicle prior to sale shall not be required. In the event that the Police Department determines that the cost of towing and storage charges for the impoundment of any motor vehicle or motor

vehicle accessories or equipment would exceed the value of the motor vehicle or motor vehicle accessories or equipment may be junked by the Police Department prior to expiration of any impoundment period upon determination by the Sheriff of Waukesha County that the vehicle is not wanted for evidence or other reasons.

The costs incurred by the town in the removal of the storage of any such dismantled, partially dismantled, abandoned, junked, wrecked, non-operable or discarded motor vehicle, or motor vehicle accessories or equipment, less the amount received by the town in the sale or disposition of the motor vehicle or motor vehicle accessories or equipment, shall be charged to the owner of the real estate upon which the motor vehicle or motor vehicle accessories or equipment is located; and in the event such costs and expenses are not paid within 30 days from the date of billing by the town, the same shall be levied and assessed against the real estate upon which the motor vehicle or motor vehicle accessories or equipment is located, and collected by the town in the same manner as other real estate taxes are assessed and collected.

(h) Removal from Public Highway and Public Property.

No person shall leave any dismantled, partially dismantled, abandoned, junked, wrecked, non-operable or discarded motor vehicle, or motor vehicle accessories or equipment on any public street, highway or upon any public property in the Town of Lisbon.

No person shall leave unattended any motor vehicle or motor vehicle accessories or equipment on any public street, highway or upon any public property in the Town of Lisbon for such time or under such circumstances as to cause the vehicle or accessories or equipment to appear to be abandoned. When any motor vehicle or motor vehicle accessories or equipment has been left unattended upon a public street, highway or upon any public property for more than 48 hours, the vehicle or such accessories or equipment is deemed abandoned and considered a public nuisance.

Any such vehicle and accessories or equipment shall be summarily removed by town equipment or a private towing company under the direction of the Police Department to a lawful place of storage. Notice shall be given by certified mail to the owner or record of such vehicle and accessories or equipment, if such owner can be ascertained by the exercise of reasonable diligence, of the removal of such motor vehicle and accessories or equipment, and the place where the same is stored and such notice and pay the costs and expenses for the removal and storage charges, the same will be summarily disposed of in any manner deemed desirable by the town. In the event that the owner of record cannot be ascertained, notice as provided herein shall be given as a Class 1 notice in the official town newspaper.

In the event the Police department determines that the motor vehicle or motor vehicle accessories or equipment have a value of less than \$100, the same may be summarily disposed of by the Police Department by direct sale upon determination that the vehicle is not reported stolen and that storage of such vehicle prior to sale shall not be required.

The Police Department shall notify the Wisconsin Department of Transportation within 5 days after the sale or disposal of any dismantled, partially dismantled, abandoned, junked, wrecked, non-operable or discarded motor vehicle.

## **5.07 SEWERAGE SLUDGE DISPOSAL.**

(a) Scope and Intent

The intent of this section 5.07 is to safeguard the public against the creation or perpetration of a public nuisance. It is the intent of the Town Board that the application of sludge on property sites located in the town be undertaken in accordance with the regulations and laws of the State of Wisconsin, but not in such a manner as might be offensive to the ordinary sensibilities of the town residents.

(b) Definitions.

As used in this section:

(1) The term "sludge" shall mean the accumulated residual solids (usually in aqueous solution) resulting from the treatment of municipal waste waters.

(2) The term "site" or "property site" shall mean the property on which the applicant intends to apply sludge. Each real estate tax parcel as found on the tax rolls of the Town of Lisbon shall constitute a separate "site" or "property site."

(3) The term "applicant" shall be the owner of the treatment facility generating the sludge.

(c) Permit Required.

No person, firm or corporation shall apply or allow to be applied to lands under their ownership, lease or control, sludge to any land located within the corporate limits of the Town of Lisbon without first having obtained a permit from the Town Board. This shall apply to both existing and proposed sludge disposal operation.

(d) Application.

Written application for a permit to apply sludge on any lands located within the town shall be made to the Town Clerk. The application shall state:

(1) The name and address of the applicants, and if the applicant is a corporation, the name, address and registered agent of the corporation.

(2) The post office and legal description of the site to be used.

(3) The name of the landowners and haulers involved with the disposal of the sludge. A copy of any contract related to the disposal shall be appended to the application.

(4) The length of time the applicant intends to apply sludge on the site or sites described in the application.

(5) The name or names and address of the owners of any other site or sites upon which the applicant is presently applying sludge, whether or not such site or sites are within or without the corporate limits of the town.

(6) The name and post office address of any property owner whose property is located within 300 feet of the site described in the application.

(e) Term of Permit.

A permit issued hereunder shall be for a period not exceeding one year from date of issuance. The permit shall specify the days of the week and hours of each day during which sludge may be applied to the site.

(f) Permit Fee.

The applicant shall file with his application a non-refundable annual permit fee of \$500; provided, however, that the Town Board may waive this requirement.

(g) Granting of Permit.

The Town Board shall issue a permit hereunder if, upon consideration of all information presented to the Board, it finds the following:

(1) The sludge will be incorporated with the soil on the property site so as to prevent the creation of noxious or offensive odors.

(2) That the sludge will be applied in accordance with the appropriate regulations of the Department of Natural Resources.

(3) That the applicant has received approval from the Department of Natural Resources to apply such sludge to the property site described in the application.

(4) That no sludge will be applied at a distance less than 200 feet from the nearest residence, or at such other distance, if greater, as is required by the Department of Natural Resources.

(5) That the sludge will not be applied at a distance less than 200 feet from the nearest private water supply well, or at such other distance, if greater, as is required by the Department of

Natural Resources. And that the application of the sludge is not likely to result in the contamination of a source for water supply, irrespective of the location of the water supply.

(6) That the sludge will not be applied at a distance less than 100 feet from any stream, pond or other channelized waterway, or such other distance, if greater, as is required by the Department of Natural Resources.

(7) That the sludge will not be applied to any soil which, because of its composition, would tend to create a health hazard.

(8) That the applicant has applied for and received all appropriate licenses from county or state licensing authorities.

(9) That a copy of all reports required by the county or state be sent to the Town Clerk at the same time as sent to the state.

(10) That the application of sludge will not constitute a nuisance as that term is defined in Section 5.02(b)10 of the Lisbon Town Code.

(gg) Renewal of Permit.

The Town Board may, at its discretion, waive the requirement of a public hearing and the notification of property owners within 1,000 of any boundary of the site described in the permit when renewal of an existing permit is requested.

(h) Bond

Upon approval of application for issuance of a permit hereunder, but prior to the issuance of the permit, the applicant shall file with the Town Clerk a surety bond in the amount of \$10,000, and proof of liability insurance conditioned upon and as a guarantee that the applicant will fully abide by the terms and conditions of this chapter, the ordinances of the Town of Lisbon, and any rule and regulations imposed by the Town Board as a condition for the granting of such permit, and as a further guarantee that the applicant will be fully able to compensate any resident of the town who might be injured or damaged by application of the sludge to the property site described in the application.

Notwithstanding anything contained herein to the contrary, the Town Board may waive the provisions of subparagraph (h) where the applicant is a Wisconsin municipality.

(h) Bond.

Upon approval of application for issuance of a permit hereunder, but prior to the issuance of the permit, the applicant shall file with the Town Clerk a surety bond in the amount of \$10,000, and proof of liability insurance conditioned upon and as a guarantee that the applicant will fully abide by the terms and conditions of this chapter, the ordinances of the Town of Lisbon, and any rules and regulations imposed by the Town Board as a condition for the granting of such permit, and as a further guarantee that the applicant will be fully able to compensate any resident of the town who might be injured or damaged by application of the sludge to the property site described in the application

Notwithstanding anything contained herein to the contrary, the Town Board may waive the provisions of subparagraph (h) where the applicant is a Wisconsin municipality.

(i) Penalty.

Any person, firm or corporation who violates this section shall be subject, upon conviction, to a forfeiture of not less than \$100 or more than \$5,000, together with the cost of prosecution, and, in default of payment of such forfeiture and costs, shall be imprisoned in the County Jail until such forfeiture and costs are paid, for a period not exceeding 90 days. (11/12/84)

(j) Separate Violations.

Each violation and each day a violation continues or occurs, shall constitute a separate offense.

## 5.08 HAZARDOUS WASTE MANAGEMENT

### (a) Purpose and Findings.

(1) The purposes of this section are:

A. To insure safe and effective hazardous waste management

B. To establish a program of regulation over the storage, transportation, treatment, and the disposal of hazardous wastes in the Town of Lisbon.

(2) The Town of Lisbon find that:

A. Increasing production and consumption rates, continuing technological development and energy requirements have led to the generation of greater quantities of hazardous waste;

B. The problems of disposing of hazardous wastes are increasing as a result of air and water pollution controls and a shortage of available landfill sites;

C. 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;

D. Even though the Town of Lisbon is not heavily industrialized, there is a significant daily hazardous waste disposal problem; and

E. The public health and safety, and the environment are threatened where hazardous wastes are not managed in an environmentally sound manner.

### (b) Definitions.

(1) The term "disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste into or on any land or water so that hazardous waste or any constituent thereof may enter the environment, be emitted into the air, or discharged into any waters, including ground waters.

(2) The term "hazardous waste" means any waste or combination of wastes of a solid, liquid, contained gaseous, or semi-solid form which because of its quantity, concentration, or physical, chemical, or infectious characteristics, as established by the Town Chairperson, may (1) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (2) 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 the substances described as a hazardous waste.

(3) The term "generation" means the act or process of producing hazardous waste.

(4) The term "Town Chairperson" means the Town Chairperson of the Town of Lisbon or his or her designated agent.

(5) The term "person" means any individual, partnership, corporation (including a government corporation), trust, association, firm, joint stock company, organization, commission, the village of federal government, or other entity.

(6) The term "storage" means containment in such a manner as not to constitute disposal.

(7) The term "transport" means the movement from the point of generation to any intermediate site and finally to the point of ultimate storage or disposal.

(8) The term "treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of a

hazardous waste so as to neutralize or as to render it nonhazardous, safer for transport, amenable for recover or storage, or reduced in volume.

(9) The term "treatment facility" means a location for treatment, including an incinerator or a facility where generation has occurred.

(c) Permits.

(1) Thirty days after the effective date of this section it shall be unlawful to construct, substantially alter, or operate any hazardous waste treatment or disposal facility or site, or to store, transport, treat, or dispose of any hazardous waste without first obtaining a permit from the Town Board of the Town of Lisbon for such facility, site or activity after review and recommendation by the Plan Commission for the Town of Lisbon.

(2) The Town Board is authorized to issue, vary, or modify the terms of any permit, or to suspend, revoke or deny a permit to achieve the purposes of this section, except that the Town Board may not issue a permit for a period exceeding one year. The Town Board may establish the appropriate permit fee to cover the costs associated with its issuance.

(d) Variance.

The Town Board may grant a variance not to exceed 90 days upon a showing that compliance with the requirements of this section or the rules and regulations promulgated pursuant thereto would result in an unreasonable financial hardship, and that the public health and welfare would not be endangered.

(e) Inspection, Right of Entry.

(1) For the purpose of enforcing this section or any rule or regulation promulgated pursuant to this section, the Town Chairperson may at any reasonable time, within reasonable limits, and in a reasonable manner, upon presenting appropriate credentials to the owner operator or agent in charge:

A. Enter without delay any place where hazardous wastes are generated, stored, treated, or disposed.

B. Inspect and obtain samples of any waste of substance used in the treatment of waste.

C. Inspect and copy any records, reports, information, or tests results relating to the purposes of this section.

Each such inspection shall be commenced and completed with reasonable promptness.

(2) If the officer or employee obtains any samples prior to leaving the premises, he or she shall give to the owner, operator, or agent in charge, a receipt describing the sample obtained, and if requested, a portion of each such sample equal in volume or weight to the portion retained. If any analysis is made of such samples, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent. in charge.

(f) Appeal Procedures.

Any person adversely affected by an action taken pursuant to the provisions of this section or the rules and regulations filing with the Town Clerk within 15 days of the date of such action, a written request for a hearing. Such hearing shall be conducted in such a fashion that the person adversely affected may be represented by counsel and may present evidence and call and examine witnesses and cross examine other witnesses called. The Town Board may call witnesses and may issue subpoenas. All witnesses shall be sworn by the Town Board. The Town Board shall cause notes to be taken of the testimony and shall mark and preserve all exhibits. Within 20 days of such hearing, the Town Board shall mail or deliver to the person adversely affected a written determination stating the reason therefore. The determination shall be final determination.

(g) Suspension and Revocation of a Permit.

(1) The Town Chairperson may suspend a permit issued in accordance with Section 5.08 (c) for a period not to exceed 3 months if the holder of the permit is in violation of this section or the rules and regulations promulgated pursuant thereto. Written notice of the suspension shall be served upon the affected party or his or her designated agent. If no appeal is filed within 10 days of a receipt of this notice, the suspension shall become final.

(2) Where there is a history of repeated violations and/or a permit has been previously suspended, the Town Chairperson may revoke a permit, upon a showing of subsequent violation, and upon providing the affected party, or his or her designated agent, with written notice of the intent to revoke the permit, with an opportunity for a hearing prior to revocation. The revocation shall take effect 15 days after the notice has been given, unless a written request for a hearing is received by the Town Chairperson within that period.

(3) Where a permit has been revoked, the person affected has the right to reapply for a permit. If this person is able to demonstrate an ability and willingness to comply with the permit and with the provisions of this section, and the rules and regulations promulgated pursuant thereto, the Town Board may consider granting this new permit.

(h) Injunction.

Notwithstanding any other provision of this section, if the Town Chairperson finds that any person is operating a storage, treatment, or disposal facility or site, or is transporting hazardous wastes in an illegal, unsafe or otherwise improper manner as to endanger the public health or welfare, the Town Chairperson may order such person to immediately discontinue the act. Upon failure to comply with this order, the Town Chairperson may request the Town Attorney or his designee to commence appropriate civil action in the Circuit Court for Waukesha County or other court of competent jurisdiction to secure a restraining order a preliminary injunction, a permanent injunction, or other appropriate relief.

(i) Penalties.

(1) Whenever the Town Chairperson has reason to believe that there has been a violation of this section or of the rules and regulations promulgated pursuant thereof, the Town Chairperson may, in lieu of, or in addition to any other enforcement procedure, give written notice of such alleged violation to the person or persons responsible therefore, and order these persons to take such corrective measures as are deemed reasonable and necessary. This notice shall state the nature of the violation and shall reasonable time for the performance of necessary corrective measures. If a person fails to comply with this notice within the time period stated in the notice, the Town Chairperson shall institute such action as may be necessary to terminate the violation.

(2) Notwithstanding any provision of this section, any person who violates any provision of this section of any rules and regulations promulgated pursuant thereto, shall be punished by a fine not to exceed \$1,000. In the event of any violation, each and every day of such violation shall constitute a separate offense, and the penalties prescribed herein shall be applicable to each such separate offense.

(j) Severability.

Each separate provision of this section shall be deemed independent of any other provision of this section, and if any provision, sentence, clause, section or part thereof is held illegal, invalid, or unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this section or their application to other parts or circumstances. It is hereby declared to be the legislative intent that this section would have been enacted if such illegal, invalid, or unconstitutional provision, sentence, clause, section, or part had not been included therein, and if the person or circumstances to which this section or any part thereof is inapplicable had been specifically exempted therefrom.

## 5.09 USE OF RECYCLING FACILITY

(a) Hours of Operation.

The Town Board shall, from time to time, establish hours for operation of the Town Recycling Center, and shall cause notice of the hours and days of operation to be posted at the site.

(b) Site Restrictions.

No person shall cause any article or item of property, irrespective of whether the same has any monetary value, to be transported to and abandoned at the recycling site except on the days of operation posted at the site, and then only within the specific hours of operation posted. Any person who leaves any item or article of personal property at the site except on the days of operation and during the hours of operation posted, shall be deemed to have abandoned the personal property at the site contrary to the prohibition of this provision.

(c) Penalty.

Any person violating the terms of this provision shall be subject to a fine of not less than \$50 or more than \$100, together with costs and penalties as may be assessed by the Court, for the first such occurrence, and a sum of not less than \$100 and not more than \$200, together with costs and penalties as may be assessed by the Court, or any second or subsequent violation of this section within a period of six months from the first violation. (2/22/88)

## 5.10 SMOKING PROHIBITED.

(a) Possession, smoking and/or use of tobacco products is prohibited in all education facilities, as that term is defined in Section 101.123(1)(a), Wisconsin Statutes, as well as all ground on which any educational facility is located. As used herein the term smoking shall mean possession of a lighted cigarette, cigar, pipe or any other lighted smoking equipment. As used herein the term possession of tobacco products shall mean that a person has dominion or control over any tobacco product.

(b) Any person violating this provision shall be subject to a fine of not less than \$25 nor more than \$100, together with all taxable costs and assessments.

## 5.11 ADULT-ORIENTED ESTABLISHMENTS

(a) Definitions.

(1) "Adult-oriented establishment" shall include, but is not limited to "adult bookstores," "adult motion picture theaters," "adult mini-motion picture establishments," or "adult cabaret," and further means any premises which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or member, whether or not such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect.

(2) "Adult bookstore" means an establishment having as its stock in trade, for sale, rent, lease, inspection or viewing books, films, video cassettes, magazines or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing or relating to "specific sexual activities" or "specified anatomical areas" as defined below, and in conjunction therewith have facilities for the presentation of adult entertainment, as defined below, including adult oriented films, movies or live performances, for observation by patrons therein.

(3) "Adult motion picture theater" means an enclosed building with a capacity of 50 or more persons used for presenting material having as its dominant theme, or distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below, for observation by patrons herein.

(4) "Adult mini-motion picture theater" means an enclosed building with a capacity of less than 50 persons used for presenting material having as its dominant theme, or distinguished or characterized by an emphasis on, matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below.

(5) "Adult cabaret" means a cabaret which features topless dancers, strippers, male or female impersonators, or similar entertainers.

(6) "Board" means the Town Board for the Town of Lisbon, Wisconsin.

(7) "Adult entertainment" means any exhibition of any motion pictures, live performance, display or dance of any type, which has as its dominant theme, or is distinguished or characterized by an emphasis on any actual or simulated "specified sexual activities" or "specified anatomical areas," as defined below, or the removal of articles of clothing or appearing partially or totally nude.

(8) "Operators" means any person, partnership, or corporation operating, conducting, maintaining or owning any adult-oriented establishment.

(9) "Specified sexual activities" means simulated or actual:

(A) Showing of human genitals in a state of sexual stimulation or arousal;

(B) Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio or cunnilingus;

(C) Fondling or erotic touching of human genitals, public region, buttock or female breasts.

(10) "Specified anatomical areas" means:

(A) Less than completely and opaquely covered human genitals, public region, buttocks, and female breast below a point immediately above the top of the areola;

(B) Human male genitals in a discernible turgid state, even if opaquely covered.

(b) License.

(1) Except as provided in paragraph 4 below, from and after the effective date of this section, no adult-oriented establishment shall be operated or maintained in the Town of Lisbon without first obtaining a license to operate issued by the Town of Lisbon.

(2) A license may be issued only for one adult-oriented establishment located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one adult-oriented establishment must have a license for each.

(3) No license or interest in a license may be transferred to any person, partnership or corporation.

(4) All adult-oriented establishments existing at the time of the passage of this ordinance (Section 5.11) must submit an application for a license within 90 days of the passage of this ordinance.\* If an application is not received within said 90 day period, then such existing adult-oriented establishment shall cease operations. (\*ordinance passed 12/11/89, publ. 12/12/89)

(c) Application for License.

(1) Any person, partnership or corporation desiring to secure a license shall make application to the Town Clerk. The application shall be filed in triplicate with and dated by the Town Clerk.

(2) The application of a License shall be upon a form provided by the Town Clerk. An applicant for a license, who is interested directly in the ownership or operation of the business, shall furnish the following information under oath:

(A) Name and address.

(B) Written proof that the individual is at least 18 years of age.

(C) The address of the adult-oriented establishment to be operated by the applicant.

(D) If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name and address of the registered agent

and the name and address of all shareholders owning more than five percent of the stock in said corporation and all officers and directors of the corporation.

(3) Within 21 days of receiving an application for a license the Town Clerk shall notify the applicant whether the application is granted or denied.

(4) Whenever an application is denied, the Town Clerk shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within 10 days of receipt of notification of denial, a public hearing shall be held within 10 days thereafter before the Board, as hereinafter provided.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or co-operate with any investigation required by this section shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the Town Clerk.

(d) Standards for issuance of License.

(1) To receive a license to operate an adult oriented establishment, an applicant must meet the following standards:

(A) If the applicant is an individual:

(1) The applicant shall be at least 18 years of age.

(2) The applicant shall not have been found to have previously violated this ordinance within 5 years immediately preceding the date of the application.

(B) If the applicant is a corporation:

(1) All officers, directors and stockholders required to be named under subsection (c)(2) shall be at least 18 years of age.

(2) No officer, director, or stockholder required to be named under subsection (c)(2) shall have been found to have previously violated this section within 5 years immediately preceding the date of the application.

(C) If the applicant is a partnership, joint venture, or any other type of organization where two or more persons have a financial interest:

(1) All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least 18 years of age.

(2) No person having a financial interest in the partnership, joint venture or other type of organization shall have been found to have violated any provision of this section within 5 years immediately preceding the date of the application.

(e) Fees.

A license fee of \$250 shall be submitted with the application for a license. If the Application is denied, one-half of the fee shall be returned.

(f) Display of License or Permit.

The license shall be displayed in a conspicuous public place in the adult-oriented establishment.

(g) Renewal of License of Permit.

(1) Every license issued pursuant to this section will terminate at the expiration of one year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the Town Clerk. The application for renewal must be filed not later than 60 days before the license expires. The application for renewal shall be filed in triplicate with and dated by the Town Clerk. The application for

renewal shall be upon a form provided by the Town Clerk and shall contain such information and data, given under oath or affirmation, as is required for an application for a new license.

(2) A license renewal fee of \$250 shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of \$100 shall be assessed against the applicant who files for a renewal less than 60 days before the license expires. If the application is denied, one-half of the total fees collected shall be returned.

(h) Revocation of License.

(1) The Board shall revoke a license or permit for any of the following reasons:

(A) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.

(B) The operator or any employee of the operator violates any provision of this section or any rule or regulation adopted by the Board pursuant to this section; provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of 30 days if the Board shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.

(C) The operator becomes ineligible to obtain a license or permit.

(D) The cost or fee required to be paid by this section is not paid.

(E) Any intoxicating liquor or cereal malt beverage is served or consumed on the premises of the adult-oriented establishment.

(2) The Board, before revoking or suspending any license or permit, shall give the operator at least 10 days' written notice of the charges against him, and the opportunity for a public hearing before the Board, as hereinafter provided.

(3) The transfer of a license or any interest in a license shall automatically and immediately revoke the license.

(4) Any operator whose license is revoked shall not be eligible to receive a license for one year from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for six months from the date of revocation of the license.

(i) Physical Layout of Adult-Oriented Establishment.

Any adult-oriented establishment having available for customers, patrons or members, any booth, room or cubicle for the private viewing of any adult entertainment must comply with the following requirements:

(1) Access. Each booth, room or cubicle shall be totally accessible to and from aisles and public areas of the adult-oriented establishment, and shall be unobstructed by any door, lock or other control-type devices.

(2) Construction. Every booth, room or cubicle shall meet the following construction requirements:

(A) Each booth, room or cubicle shall be separated from the adjacent booths, rooms and cubicles and any non-public areas by a wall.

(B) Have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying same.

(C) All walls shall be solid and without any openings, extended from the floor to a height of not less than 6 feet and be light colored, non-absorbent, smooth textured and easily cleanable.

(D) The floor must be light colored, non-absorbent, smooth textured and easily cleanable.

(E) The lighting level for each booth, room or cubicle, when not in use, shall be a minimum of 10 foot candles at all times, as measured from the floor.

(3) Occupants. Only one individual shall occupy a booth, room or cubicle at any time. No occupant of same shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth. No individual shall damage or deface any portion of the booth.

(j) Responsibilities of the Operator.

(1) Every act or omission by an employee constituting a violation of the provisions of this section shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(2) Any act or omission of any employee constituting a violation of the provisions of this section shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.

(3) No employee of an adult-oriented establishment shall allow any minor to loiter around or frequent an adult-oriented establishment or to allow any minor to view adult entertainment as defined herein.

(4) The operator shall maintain the premises in a clean and sanitary manner at all time.

(5) The operator shall maintain at least 10 foot candles of light in the public portions of the establishment, including aisles, at all time. However, if a lesser level of illumination in the aisles shall be necessary to enable a patron to view the adult entertainment in a booth, room or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisles; provided, however, at no time shall there be less than one foot candle of illumination in said aisles, as measured from the floor.

(6) The operator shall insure compliance of the establishment and its patrons with the provisions of this section.

(k) Administrative Procedure and Review.

Chapter 68, Wisconsin Statutes, concerning contested cases shall govern the administrative procedure and review regarding the granting, denial, renewal, non-renewal, revocation or suspension of a license.

(m) Penalties and Prosecution.

(1) Any person, partnership, or corporation who is found to have violated this section shall be fined a definite sum not exceeding \$250 and shall result in the revocation of any license.

(2) Each violation of this section shall be considered a separate offense, and any violation continuing more than one day shall be considered a separate offense.

## 5.12 FIREWORKS

(a) Sale of Fireworks Prohibited.

The sale of fireworks within the Town of Lisbon, as that term is defined in Wis. Stat. § 167.10, is prohibited.

(b) Penalty.

Any person violating the terms of this provision shall be subject to a fine of not less than Fifty Dollars (\$50.00), nor more than One Hundred Dollars (\$100.00), together with costs and penalties as may be assessed by the court, for the first such occurrence, and a sum of not less than One Hundred Dollars (\$100.00) and not more than Two Hundred Dollars (\$200.00), together with costs and penalties as may be assessed by the court, for any second or subsequent violation of this ordinance with a period of six (6) months from the date of the first violation.