

CHAPTER 8. HEALTH AND SANITATION

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HEALTH AND SANITATION

SEC. 8.01 DUTIES AND POWERS OF THE HEALTH OFFICER.

- (a) **General Duties.** The Health Officer under the supervision of the Regional Director of the Wisconsin Department of Health and Family Services, Division of Health, or its successor department, division or agency, shall:
 - (1) Maintain continuous sanitary supervision over his territory.
 - (2) Promote the spread of information as to the causes, nature and prevention of prevalent diseases and the preservation and improvement of health.
 - (3) Enforce the health laws, rules and regulations of the Wisconsin Department of Health and Family Services, or its successor department, division or agency, the state and the City including the laws relating to contagious diseases contained in Ch. 252, Wis. Stats.
 - (4) Take steps necessary to secure prompt and full reports by physicians of communicable diseases.
 - (5) Keep and deliver to his successor a record of all his official acts.
 - (6) Make an annual report to the Wisconsin Department of Health and Family Services, or its successor department, division or agency, and to the Common Council and such other report as they may request.
- (b) **Materials and Supplies.** The Health Officer may procure at the expense of the City all record books, quarantine cards and other material needed by the Board of Health, except such as are furnished by the Wisconsin Department of Health and Family Services.
- (c) **Communicable Diseases and Quarantine and Isolation Regulations.**
 - (1) **General Provisions.**
 - (a) Chapter 252 Wis. Stats and HFS Wis. Admin. Code and all future amendments thereto are hereby incorporated by reference. The Community Public Health Officer shall perform all duties prescribed to him or her by the State of Wisconsin Department of Health Services regarding contagious diseases, including, but not limited to CH. 252, Wis. Stats. And Ch. HFS 145, Wis. Adm. Code. All reference to "local health officer" in the statutes and regulations shall mean the Community Public Health Officer.
 - (b) The Community Public Health Officer or designee may order the isolation or quarantine

of individuals as a protective action to limit the spread of infectious agents or contaminants to others.

- (c) The Community Public Health Officer may, with support from local law enforcement, immediately detain infected or exposed individuals and place them in isolation or quarantine.
 - (d) In all cases where isolation or quarantine is ordered, the Community Public Health Officer will address the basic needs of individuals placed in isolation or quarantine including but not limited to food, clothing, shelter, medical care, and communication with family members, legal counsel and others, if needed.
- (2) **Reporting of communicable diseases.**
 - (a) Any person licensed under Ch. 441 or 448, Wis. Stats., who has a reasonable suspicion that a person treated or visited by the licensee has a reportable communicable disease, or having had such a disease, has died, shall report the same to the Community Public Health Officer.
 - (b) Any person, other than those licensed under Ch. 441 or 448, Wis. Stats., having reason to believe that anyone has a reportable communicable disease shall report such belief to the Community Public Health Officer.
 - (c) Any laboratory shall report to the Community Public Health officer those specimen results the Community Public Health Officer has designated to aid in the surveillance, diagnosis, control and prevention of communicable diseases, including cases of suspected food poisonings and outbreaks of disease occurring in the City of Oak Creek.
 - (d) Unless otherwise specified, all reports required by this section shall be submitted within twenty-four (24) hours of the event at the Health Department in a form prescribed by the Community Public Health Officer.
 - (3) **Voluntary confinement.**

Prior to instituting mandatory isolation or quarantine pursuant to this section, the Community Public Health Officer may request that an individual or group of individuals voluntarily confine themselves to a private home or other facility.
 - (4) **Isolation, Quarantine, and Placarding Orders.**

When it is necessary to protect the public's health against communicable disease or conditions hazardous to the public health, the Community Public Health Officer may placard or post notices or warnings on buildings, conveyances, property, or other appropriate places to inform or educate the public,

or to implement isolation and quarantine orders or to restrict entrance or occupancy. Such placards, notices or warnings shall remain upon such building, conveyance, property, or other appropriate places to inform or educate the public, or to carry out isolation and quarantine orders or to restrict entrance or occupancy. Such placards, notices or warnings shall remain upon such building, conveyance, property, or other appropriate places as long as determined necessary by the Community Public Health Officer and shall not be effaced or made illegible.

(5) Quarantine Guards and Officers.

The Community Public Health Officer shall employ as many persons as are necessary to execute quarantine orders. Persons shall be sworn as quarantine guards, shall have police powers, and may use all necessary means to enforce this section.

(6) Communicable Diseases Information to the Public and to Schools.

The Community Public Health Officer may advise the public and any individual persons regarding the provisions of this Section in order to assist the Community Public Health Officer(s) in the performance of duties pertaining to the protection against contagious diseases, including, but not limited to the provisions of §252.19, Stats. No person who is knowingly infected with a communicable disease may willfully violate the orders of the Community Public Health Officer or subject others to the danger of contracting the disease. No person may knowingly and willfully take, aid in taking, advise or cause to be taken, a person who is infected or is suspected of being infected with a communicable disease into any public place or conveyance where the infected person would expose any other person to the danger of contracting the disease. The Community Public Health Officer may further specifically advise schools, teachers, school nurses and principals of the provisions of §252.21, Stats., that a local health officer shall be notified of the existence or suspicion of the presence of a communicable disease in a school.

Any teacher, school nurse or principal may send home pupils from school who are suspected of having a communicable disease or any other disease that the State Department of Health Services specifies by rule.

(7) Confined or Hospitalized Person.

- (a) When a person confined in a jail, mental health institute, hospital or other public place of detention has a communicable disease which the Community Public Health Officer

deems dangerous to the health of other residents or the public, the Community Public Health Officer shall in writing order the removal or isolation of the person to a hospital or place of safety to be provided for and safely kept.

- (b) Upon recovery, the person shall be returned; and if the person was committed by a court or under process, the removal order or a copy shall be returned by the Community Public Health Officer to the committing court officer.

(8) Discharge.

The Community Public Health Officer shall authorize the release of contacts or a person from isolation or quarantine when the Community Public Health Officer or designee is satisfied that the communicable period, if known, has lapsed or the risk of contamination has subsided. If deemed necessary by the Community Public Health Officer, the person shall pursue a prescribed course of medical treatment or therapy to ensure recovery from the disease prior to discharge.

(9) Veterinarian to Report Animals and Birds with Diseases of Zoonotic Importance.

Any person licensed as a veterinarian under Ch. 443 Wis. Stats., having knowledge or reason to believe or suspect that an animal or bird has disease of zoonotic importance or having such a disease has died shall report same to the Community Public Health Officer. Such report shall be made to the Community Public Health Officer within 24 hours either by telephone or by deposit at the Health Department in a form required by the Community Public Health Officer. The report shall include the disease and the place where the animal or bird is kept or located, and the name, address and telephone number of the owner or keeper, and other information as required.

(10) Employment of Persons Who Handle Food Products.

- (a) No person in charge of any public eating place, or other establishment where food products to be consumed by others are handled, may knowingly employ any person to handle food products who has a disease in a form that is communicable by food handling.
- (b) No person knowingly infected or who is reasonably suspected of being infected with a disease in a form that is communicable by food handling may be employed or work as a food handler in a public eating place or other establishment where food products to be consumed by others are handled or produced.

- (c) If required by the Community Public Health officer for the purposes of an investigation, any person who is employed in the handling of foods who is suspected of having a disease in a form that is communicable by food handling shall submit to an examination ordered by the Community Public Health Officer and may not work in such capacity until proved not to have such disease. The expense of the examination shall be paid by the person examined.

(11) Employment of Persons in Hospitals, Nursing Homes, Day Care Centers, and Health Care Facilities.

- (a) No person who is in charge of a hospital, nursing home, daycare center or other facility requiring close personal contact may knowingly employ volunteers or employees with gastrointestinal or other communicable diseases in the infectious stage as specified by the Community Public Health Officer in occupations requiring close personal contact with others.
- (b) No person in a facility mentioned in sub. (a) who has or is reasonably suspected of having a gastrointestinal or other communicable disease in the communicable form as specified by the Community Public Health Officer may be employed in a paid or volunteer basis in occupations requiring close personal contact until ascertained non-communicable by appropriate laboratory tests as specified by the Community Public Health Officer.
- (c) If required by the Community Public Health Officer for the purposes of an investigation, any person who is employed in an occupation requiring close personal contact with others who is suspected of having a disease in a form that is communicable by close personal contact shall submit to an examination ordered by the Community Public Health Officer and may not work in such capacity until proved not to have such disease. The expense of the examination shall be paid by the person examined.

(12) Contagious diseases – Burial of infected deceased persons.

No one having charge or control of any schoolhouse or church, or of any room or building used for school or church purposes, or for any public assembly in this City, shall permit the body of any person whose death was caused by smallpox, diphtheria, scarlet fever, Asiatic cholera, or other dangerous contagious diseases to be taken into such building or room for the purpose of holding funeral services over such body; and no sexton, undertaker or other person having

charge or direction of the burial of any body whose death was caused by any of these diseases herein mentioned shall permit the casket or coffin containing such a body to be opened in the presence of any child; neither shall any child be permitted to act as pall bearer or carrier at any such funeral; and the Community Public Health Officer shall have power to prevent the attendance at the funeral or burial of any person whose death was caused by dangerous contagious diseases of all persons other than those necessary for the interment of such body; and any person who violates any of the provisions of this section shall be subject to the general penalty provisions of the code.

(13) Violations.

Any person who willfully violates any provision of this section shall, in addition to being subject to any other legal and equitable actions available to the City be subject to the penalty provisions set forth under §1.07. of this code.

(14) Liability for Costs and Expenses.

Expenses for diagnostic and necessary medical care, the expense of conducting examinations and investigative measures and tests for disease carriers made under the directions or approval of the Community Public Health Officer, food and other articles needed for the care of the infected person or contact shall be charged to the infected person or contact or whoever is liable for the person's support and, if that person or the individual responsible for the person's support owns property in the City, the cost of said services may be imposed as a special charge against said property. The infected person or contact shall be liable for the costs and expenses of maintaining quarantine and enforcing isolation of the quarantined area, except in the case of tuberculosis in which case the City will bear the costs. Expenses for diagnostic and investigative measures performed in the course of an epidemiological investigation shall be charged against the business, establishment, entity or owner where the disease commenced or continued or was believed to have commenced or continued.

Ordinance 2535 A 12/16/08, Sec. 8.01(c)

SEC. 8.02 RULES AND REGULATIONS.

The Health Officer and/or Board of Health may make reasonable and general rules for the enforcement of the provisions of this Chapter and for the prevention of the creation of human health hazards and the protection of the public health and welfare and may, where appropri-

ate, require the issuance of licenses and permits. All such regulations shall have the same effect as ordinances, and any person violating any of such regulations and any lawful order of the Council shall be subject to the general penalty provided for in this Code of Ordinances.

SEC. 8.03 HUMAN HEALTH HAZARDS

(a) **Authority.** This ordinance is adopted pursuant to the authority granted by Chapters 251 and 254 Wisconsin Statutes.

(b) **Purpose and Intent.** The purpose and intent of this section is to protect the public health, safety and general welfare and to maintain and protect the environment for the people and community of Oak Creek to:

- (1) Prevent communicable diseases.
- (2) Prevent the continuation of human health hazards.
- (3) Assure the State air quality standards are complied with.
- (4) Assure that insects and rodents do not create human health hazards and/or health hazards.
- (5) Assure that surface and groundwater meet State standards and regulations.
- (6) Assure that solid waste is handled, stored and disposed of according to State standards and regulations.
- (7) Assure that citizens are protected from hazards, unhealthy, or unsafe substances.
- (8) Provide for the administration and enforcement of this ordinance and to provide penalties for its violation.

(c) **Definitions. The following definitions apply throughout this section:**

- (1) "City" means City of Oak Creek, Wisconsin.
- (2) "Groundwater" means any of the waters of the State, as defined under State law, occurring in a saturated sub-surface geological formation of rock or soil.
- (3) "Human Health Hazard" means a substance, activity or condition that is known to have potential to cause acute or chronic illness or death if exposure to the substance, activity or condition or to endanger life, to generate or spread infectious disease or otherwise injuriously affect the health of the public.
- (4) "Community Public Health Officer" means the duly designated Health Officer and his or her public health professionals responsible for environmental sanitation.
- (5) "Immediate Health Hazard" means a condition which exists or has the potential to exist which should, in the opinion of the Community Public Health Officer, be abated or corrected immediately, or at least within a 24 hour period, to prevent possible severe damage to human health and/or the environment.

(6) "Person" means any individual, corporation, association, business enterprise or other legal entity either public or private.

(7) "Pollution" means man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of air, land or water.

(8) "Solid Waste" means garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, and all other discarded or salvageable solid, liquid, semisolid or contained gaseous waste materials, including solid waste materials resulting from industrial, commercial, agricultural operations and from domestic use and public service activities, but does not include solid or dissolved materials, in irrigations return flows or individual usages which are point sources subject to permits under Chapter 283 of the Wisconsin Statutes in waste water effluent or other common water pollutants.

(9) "State" means State of Wisconsin.

(10) "Structure or Building" means a building or structure having walls and a roof erected or set upon an individual foundation or slab constructed base designed or used for the housing, shelter, enclosure, or support of persons, animals or property of any kind. This definition includes mobile homes.

(11) "Toxic and Hazardous Materials" means any chemical and/or biological material that is or has the potential to create a human health hazard.

(d) **Administration**

(1) General Provisions. This section shall be interpreted, administered, and enforced by the Community Public Health Officer in conjunction with and cooperation with the State.

(2) Powers. The Community Public Health Officer shall have all the powers necessary to enforce the provisions of this code without limitation by reason of enumeration including the following:

- a. To enter any structure or premise at a reasonable time for the purpose of performing duties under this section and to secure a court order to accomplish this purpose if necessary.
- b. To order abatement and/or correction of any human health hazard in compliance with this section or State Statutes.
- c. To delegate the responsibilities of administration and enforcement of this section to a registered environmental health sanitarian or another

- person qualified in the field of public health.
- d. To initiate any other action authorized under the law or this section to insure compliance with the purpose and intent of this section.
 - e. To perform any actions authorized under State Law, including but not limited to actions authorized by Chapters 146 and 250-255 Wisconsin Statutes, as amended, which are hereby adopted by reference or actions authorized by this section to insure compliance with the purpose and intent of this section and the requirements of this section.
- (e) **Human Health Hazards**
- (1) Human Health Hazard prohibited. No person shall erect, construe, cause continue, maintain or permit any human health hazard within the City. Any person who shall cause, create or maintain a human health hazard or who shall in any way aid or contribute to the causing, creating or maintenance thereof shall be guilty of a violation of this section, and shall be liable for all costs and expenses attendant upon the removal and correction of such hazard and to the penalty provided for herein.
 - (2) Responsibility of Property Owner. It shall be the responsibility of the property owner to maintain such owner's property in a hazard-free manner and also to be responsible for the abatement and/or correction of any human health hazard that has been determined to exist on said property.
 - (3) Human Health Hazards Enumerated. Public nuisances affecting health include:
 - a. Unburied Carcasses. Carcasses of animals, birds, or fowl not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within the time period specified by the Community Public Health Officer or as required by chapter 95.50 of the Wisconsin Statutes.
 - b. Manure. Accumulations of the bodily waste from all domestic animals and fowl that are handled, stored, or disposed of in a manner that creates a human health hazard.
 - c. Air Pollution. The presence in the atmosphere of one or more air contaminants in such quantities and of such duration which is injurious to public health, harmful for commercial or recreational use or deleterious to fish, bird, animal or plant life.
- d. Noxious Odors. Any use of property, substances or things emitting or causing any foul, offensive, noxious or disagreeable odors, or stenches repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience of persons within the City.
 - e. Solid Waste. Any solid waste which is stored or disposed of in a manner which may pose a human health hazard as defined in Section 1(c)(3).
 - f. Food, Breeding, or Harborage Places for Vermin and Insects. Accumulations of decayed animal or vegetable matter, trash, rubbish, garbage, rotting lumber, bedding, packing material, scrap metal, animal and human fecal matter, or any substance in which flies, mosquitoes, disease carrying insects, rats, pigeons, raccoons or other vermin can breed, live, nest or seek shelter.
 - g. Toxic and Hazardous Material. Any chemical and/or biological material that is stored, used, or disposed of in such quality or has accumulated in such a manner that it is a human health hazard or has, the potential to create a human health hazard as defined in Section 1(d)(3).
 - h. Wastewater. The presence of wastewater or sewage effluent from buildings on the ground surface, backing up into the building and/or running into a surface water body caused by a damaged malfunctioning, improperly constructed, or inadequately maintained private sewage system, or private sewage lateral and, any wastewater or sewage effluent that is not handled and disposed of in compliance with all applicable City and State codes.
 - i. Surface Water Pollution. The pollution of any stream, lake or other body of surface water within the City that creates noncompliance with Chapter NR 102 and NR 103 of the Wisconsin Administrative Code or any future amendments or revisions thereto.
 - j. Groundwater Pollution. Addition of any chemical and/or biological substance that would cause groundwater to be unpalatable or unfit for human consumption including but not limited to chemical and/or biological substances listed in Chapter NR 140 of the

Wisconsin Administrative Code or any future amendments or revisions thereto.

- k. Holes or Openings. Any hole or opening caused by an improperly abandoned cistern, septic tank, dug well, or any other improperly abandoned barricaded or covered up excavation.
- l. Nonfunctional Public Building Fixtures. Nonfunctioning water supply systems, toilets, urinals, lavatories or other fixtures necessary to insure a sanitary condition in a public building.
- m. Unhealthy or Unsanitary Condition. Any condition or situation which renders a structure or any part thereof unsanitary, unhealthy and unfit for human habitation, occupancy, or use, or renders any property unsanitary or unhealthy.
- n. Animals at Large. All animals running at large.
- o. Illegal dumping. The dumping or deposit of any rubbish, stones, wire, earth, ashes, cinders, sawdust, hay, glass, manure, filth, paper, liquid snow, ice, grass, leaves, twigs, shrubs, construction waste, garbage or other offensive or noxious material in any public street or alley, upon any public property or upon any private property, vacant or occupied.
- p. Other conditions. Any other condition deemed by the Community Public Health Officer to be a human health hazard.

- (4) Investigation of Human Health Hazards. The community Public Health Officer or his/her designee shall investigate all potential human health hazards and shall determine whether or not a human health hazard exists. If a violation of this section regarding communicable disease is not reported appropriately to the Community Public Health Officer, the Community Public Health Officer shall refer the matter to the City Attorney to take proper action.
- (5) Abatement and Correction. Abatement and correction of a human health hazard shall be according to provisions of this section.

(f) **Designation of Housing as Human Health Hazard**

- (1) The Community Public Health Officer may declare any dwelling or dwelling unit found to have any of the following defects a human health hazard. It shall be condemned as unfit for human habitation and a placard

shall be placed in the dwelling or dwelling unit by the Community Public Health Officer to that effect.

- a. A dwelling which is so damaged, decayed, dilapidated, unsanitary, unsafe, or vermin infested that it creates a serious health hazard to the health or safety of the occupants or of the public.
 - b. A dwelling which lacks a potable water supply, a properly functioning public or private sanitary sewer system, or a functioning heating system adequate to protect the health or safety of the occupants or of the public.
 - c. A dwelling, because of its general condition or location, is unsanitary or otherwise dangerous to the health or safety of the occupants or of the public.
 - d. A dwelling, because of its condition, has been implicated as the source of a confirmed case of lead poisoning or asbestosis.
- (2) No person shall continue to occupy, rent or lease a dwelling for human habitation which is declared unfit for human habitation by the Community Public Health Officer.
 - (3) Any dwelling or dwelling unit condemned as unfit for human habitation, and so designated and placarded by the Community Public Health Officer, shall be vacated within a reasonable time, as specified by the Community Public Health Officer.
 - (4) No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from the Community Public Health Officer, and such placard is removed by, the Community Public Health Officer. The Community Public Health officer shall remove such placard whenever the defect or defects upon which the condemnation and placarding were based have been eliminated.
 - (5) No person shall deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation.
 - (6) Any person affected by any notice or order relating to the condemning or placarding of a dwelling or dwelling unit for human habitation may request and shall be granted a hearing in the matter before the Oak Creek Board of Health.

(7) Whenever the Community Public Health Officer determines that a violation exists or has reasonable grounds to believe that there has been a violation of any provision of this section, he/she shall give notice to the persons or person responsible and then proceed pursuant to the Wisconsin Statutes Section 254.59 or any future amendments or revisions thereto.

(g) **Responsibilities of Owner and or Occupants.** It shall be the responsibility of the property owner(s) and/or the occupant(s) both jointly and severally, to maintain their property in a manner which complies with this regulation and all applicable state and federal laws. The owner(s) and/or occupants are jointly and severally responsible for the abatement and/or correction of any human health hazard that has been determined to exist on the property under this section by the Community Public Health Officer.

(h) **Enforcement**

(1) Written order. The Community Public Health Officer shall issue a written order to any person who personally maintains a human health hazard, served personally or by registered mail with return receipt requested. This order shall specify the following:

- a. The nature of the violation and the steps needed to abate and/or correct it.
- b. The time period in which the violation must be corrected and/or abated.
- c. The penalty or penalties the person would be subject to if the violation is not abated and/or corrected.

(2) Exceptions to Written Order. In extreme cases where a violation poses an immediate health hazard as determined by the Community Public Health Officer or in the case of repeating occurrences of the same violation by the same person, the action(s) specified in subsection (3) below can be initiated immediately.

(3) Noncompliance with Order. If a person does not comply with a written order from the Community Public Health Officer the person may be subject to one or more of the following:

- a. Issuance of a citation.
- b. Commencement of legal action seeking an injunction to abate the violation or nuisance or correct the damage created by the violation.
- c. Any other action authorized by this section or by other applicable laws

as deemed necessary by the Community Public Health Officer.

d. The remedies contained herein are cumulative and enforcement of this section by one method shall not preclude other means of enforcement.

e. Technical deficiencies in the Order until (1) shall not be a defense to any legal action prosecuted under this section nor shall any omission in such Notice and Order shall be sufficient if it substantially complies with the intent of this section.

(4) Abatement and Penalties

a. Abatement or Removal of Health Hazards. If the human health hazard is not abated or removed by the date specified in the order, the Community Public Health Officer or designee may proceed pursuant to Wisconsin Statute Section 254.59 or any future amendments or revisions thereto.

b. Penalties. Anyone maintaining a human health hazard may also be fined not more than \$300 in addition to court costs. A separate offense shall be deemed committed during each day during or upon which a violation occurs or continues.

Ordinance # 2534, A 12/16/08 Sec. 8.03

State Law Reference: Sec. 254.59, Wis. Stats.

SEC. 8.04 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 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.

SEC. 8.05 DESTRUCTION OF NOXIOUS WEEDS.

(a) The City Clerk shall annually on or before May 15th 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 of Oak Creek

which he 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. 66.96 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. 66.96(2), 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 violation of this Section 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 8.07, shall include but not be limited to the following:

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 8.07 shall include but not be limited to the following:

Agrostia alba (Redtop)
Sorghum halepense (Johnson)
Setaria (Foxtail)

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

Ragweed
Thistles
Smartweed
Dandelions (over 12 inches in height)
Milkweed (over 12 inches in height)
Wild Carrot
Burdock
Sour Dock
Wild Mustard
Chickory
Poison Oak
Sow Thistle

- (d) Except as provided in Subsection (d), all weeds and grass in platted subdivisions which have buildings on more than fifty percent (50%) of the lots in the subdivision, in multi-family apartment complexes, planned developments and mobile home districts shall be cut to and maintained at a height not to exceed six (6) inches. All weeds and grass in platted subdivisions which have buildings on fifty percent (50%) or less of the lots or which are not located in platted subdivisions, and all weeds and grasses in business and manufacturing zoning districts, shall be cut to a height not to exceed one (1) foot. The City Weed Commissioner may cause all weeds, grass, and brush to be cut and removed, in accordance with this Subsection, and the cost thereof shall be charged to the property pursuant to Sec. 66.98(1), Wis. Stats.
- (e) Section 8.05 shall not be applicable to areas designated by the Common Council as nature centers or wildlife preserves pursuant to Section 8.06.

State Law Reference: Sec. 66.96, Wis. Stats.

SEC. 8.06 NATURE CENTERS/WILDLIFE PRESERVES.

- (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 twelve (12) inches in height from the ground. Specifically excluded in natural lawns are the noxious grasses and weeds identified in Section 8.05 of this Chapter. The growth of a natural lawn on non-agricultural land in excess of twelve (12) inches in height from the ground surface shall be prohibited within the City of Oak Creek unless the Council

designates a property by resolution as a nature center or wildlife preserve.

SEC. 8.07 REGULATION OF LENGTH OF LAWNS 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 Oak Creek.
- (b) **Public Nuisance Declared.** The Common Council finds that lawns, grasses and noxious weeds on non-agricultural lots or parcels of land, as classified under the Zoning Code, within the City of Oak Creek in violation of Section 8.05 adversely affect the public health and safety of the public in that they tend to emit pollen and other discomforting 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 non-agricultural lawn, grass or weed on a lot or other parcel of land which is in violation of Section 8.05 is hereby declared to be a public nuisance, except for property located in a designated floodplain area and/or wetland area or where the lawn, grass or weed is part of a nature center or wildlife preserve designated by the Common Council.
- (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 within the City.
- (d) **Inspection.** The Weed Commissioner or his 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 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 8.05.
 - (2) The notice shall be served at least five (5) days prior to the date of the hearing and shall be mailed or served on the owner of the lot or parcel of land or, if he 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 grasses or weeds are not a nuisance, he may request dispute resolution pursuant to the City's complaint dispute policy. The request for dispute resolution must be made in writing to the City Clerk's office within the five (5) days set forth in

the Weed Commissioner's notice. Upon application for dispute resolution, the property owner must deposit a Twenty-five Dollar (\$25.00) bond. If a decision is rendered in the property owner's favor, the Twenty-five Dollars (\$25.00) will be returned to the property owner. If the property owner fails to appear for the dispute resolution meeting or 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 dispute resolution meeting or a hearing is requested by the owner of the property, a dispute resolution meeting or a hearing by the Common Council shall be held within fourteen (14) 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 meeting or hearing is held. If there is a hearing, the owner may appear in person or by his attorney, may present witnesses in his own behalf and may cross-examine witnesses presented by the City as well as subpoena witnesses for his 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 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 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. 66.615(3)(f), Wisconsin Statutes.

SEC. 8.08 RODENT CONTROL.

- (a) **Definitions.** The following definitions shall be applicable in this Section:
- (1) **Owner or Manager.** Whenever any person or persons shall be in actual possession of or have charge, care or control of any property within the City, as executor, administrator, trustee, guardian or agent, such person or persons shall be deemed and taken to be the owner or owners of such property within the true intent and meaning of this Section and shall be bound to comply with the provisions of this Section to the same extent as the owner, and notice to any such person of any order or decision of the Building Commissioner or his designee shall be deemed and taken to be a good and sufficient notice, as if such person or persons were actually the owner or owners of such property, except that whenever an entire premises or building is occupied as a place of business, such as a store, factory, warehouse, rooming house, junk yard, lumber yard or any other business under a single management, the person, firm or corporation in charge of such business shall be considered the owner or manager.
 - (2) **Rodent-Proof Container.** A container constructed of concrete or metal, or the container shall be lined with metal or other material that is impervious to rodents, and openings into the container such as doors shall be tight-fitting to prevent the entrance of rodents.
 - (3) **Rodent-Proofing.** Shall consist of closing openings in building foundations and openings under and around doors, windows, vents and other places which could provide means of entry for rodents, with concrete, sheet iron, hardware cloth or other types of rodent-proofing material approved by the City.
 - (4) **Rodent Harborage.** Any place where rodents can live and nest without fear of frequent molestation or disturbance.
 - (5) **Hardware Cloth.** Wire screening of such thickness and spacing as to afford reasonable protection against the entrance of rodents.
- (b) **Elimination of Rodent Harborages.** Whenever accumulations of rubbish, boxes, lumber, scrap metal, car bodies or any other materials provide rodent harborage, the person, firm or corporation owning or in control of such materials shall cause the materials to be removed or the materials shall

be stored so as to eliminate the rodent harborage. Lumber boxes and similar materials shall be neatly piled. These piles shall be raised at least a foot above the ground. When the owner of the materials cannot be found after a reasonable search, the owner or manager of the premises on which the materials are stored shall be responsible for disposal, or proper piling, of the materials.

- (a) **Elimination of Rodent-Feeding Places.** No person, firm or corporation shall place, or allow to accumulate, any materials that may serve as a food for rodents in a site accessible to rodents. Any waste material that may serve as food for rodents shall be stored in rodent-proof containers. Feed for birds shall be placed on raised platforms, or such feed shall be placed where it is not accessible to rodents.
- (b) **Extermination.** Whenever rodent holes, burrows or other evidence of rodent infestation are found on any premises or in any building within the City, it shall be the duty of the owner or manager of such property to exterminate the rodents or to cause the rodents to be exterminated. Within ten (10) days after extermination, the owner or manager shall cause all of the rodent holes or burrows in the ground to be filled with earth or other suitable material.
- (c) **Rodent-Proofing.** It shall be the duty of the owner or manager of any building in the City of Oak Creek to make such building reasonably rodent-proof, to replace broken basement windows and, when necessary, to cover the basement window openings with hardware cloth or other suitable material for preventing rodents from entering the building through such window openings.

SEC. 8.09 COMPOSTING.

- (a) **Purpose and Intent.** The purpose of this Section is to promote the recycling of yard wastes and certain kitchen wastes through composting and to establish minimum standards for proper compost maintenance.
- (b) **Definitions.** "Composting" shall mean the controlled biological reduction of organic waste to humus. Yard waste shall mean the organic waste produced from the growing, trimming, and removal of grass, branches (not exceeding 1" in diameter) bushes, shrubs, plants, leaves and garden debris. Kitchen waste shall be any uncooked plant matter not contaminated by or containing meat, fish and/or dairy products.
- (c) **Maintenance.** All compost piles shall be maintained using approved composting procedures to comply with the following requirements:
 - (1) All compost piles shall be enclosed in a free standing compost bin. Each compost bin shall be no larger in volume than one hun-

- dred twenty-five (125) cubic feet, and shall be no taller than forty-two (42) inches.
- (2) All compost bins shall be so maintained as to prevent the attraction or harborage of rodents and pests. The presence of rodents in or near a compost bin shall be cause for the City to proceed under Section 8.08.
 - (3) All compost bins shall be so maintained as to prevent unpleasant odors.
 - (4) No compost bin shall be allowed to deteriorate to such condition as to be a blighting influence on the surrounding property or neighborhood or City in general.
 - (5)
 - a. All compost bins shall be located not less than three (3) feet from a property line or principal building or dwelling and three (3) feet from any detached accessory building.
 - b. A variance from these setback requirements may be applied for if the property owner(s) can show a hardship exists which prohibits compliance. In addition, any variance application must include a signed written approval of the variance request from the adjacent property owner(s). Variances can be granted by the Building Inspector on an annual basis upon the proper application being submitted by the property owner(s). Screening and/or fencing of compost bins may be required as a condition of a variance being granted.
 - (6) No compost bin shall be located in any yard except a rear yard, as defined in the City's Zoning Code, unless a variance is granted by the Zoning Board of Appeals.
 - (7) Those composting bins which existed prior to the adoption of this Section shall be given one (1) year to comply with the requirements set forth herein.
- (c) **Ingredients.**
- (1) No compost bin shall contain any of the following:
 - a. Lakeweeds;
 - b. Cooked food scraps of any kind or type;
 - c. Fish, meat or other animal products;
 - d. Manures;
 - e. Large items that will impede the composting process.
 - (2) Permitted ingredients in a compost bin shall include the following:
 - a. Yard waste;
 - b. Coffee grounds and used tea leaves;
 - c. Uncooked plant matter not contaminated by or containing meat, fish, and/or dairy products;
 - d. Commercial compost additives.
 - (d) **Owner Responsibility.** Every owner or operator shall be responsible for maintaining all property under his or her control in accordance with the requirements of this Section.
- SEC. 8.10 RESTAURANTS, LODGING, CAMPGROUNDS, RECREATIONAL, TAT-TOO/BODY PIERCING ESTABLISHMENTS, AND RETAIL FOOD ESTABLISHMENTS.**
- (a) **AUTHORITY.** This ordinance is adopted pursuant to that authority provided by Wisconsin State Statute Sections 66.0417, 68, 97.12, 97.41, 125.68(5), 251.04(3), 252.02, 252.03, 254.47, 254.64, and 254.69(2); and by Wisconsin State Administrative Code ATCP 74 and 75, HFS 172, 173, 175, 178, 192, 195, 196, 197 and 198, and COMM 90 and 95.
 - (b) **PURPOSE.**
 - (1) The purpose of this ordinance is to protect and improve the public health and to authorize the City of Oak Creek Health Department to become the designated agent of:
 - a. The State Department of Health and Family Services for the purpose of establishing permit fees; issuing permits; and conducting investigations or inspections of hotels, motels, tourist rooming houses, body piercing and tattooing establishments, restaurants, bed and breakfast establishments, campgrounds and camping resorts, recreational and educational camps, public swimming pools and in conducting investigations and inspections of food vending machines, their operators and vending machine commissaries; and,
 - b. The State Department of Agriculture, Trade, and Consumer Protection, for the purpose of establishing permit fees; issuing permits, conducting routine sampling, and conducting investigations or inspections of retail food establishments; and for the purpose of enacting local regulations governing these establishments.
 - (2) In addition, the Health Department may also secure samples or specimens of food and any product or substance that may affect food, examine and copy relevant documents and records and obtain photographic and other evidence needed to enforce this chapter. The Health Department shall examine any samples secured and conduct other inspections and exami-

- nations needed to determine whether there is a violation.
- (c) **APPLICABILITY.** The provisions of this ordinance shall apply to the owner and operator of any retail food establishment, hotel, motel, tourist rooming house, body piercing and tattooing establishments, restaurant, bed and breakfast establishment, campground and camping resort, recreational and educational camp, public swimming pool, vending machine commissary or vending machines in the City of Oak Creek. For purposes of this ordinance the terms license and permit are synonymous and are used interchangeably.
- (d) **DEFINITIONS.** All definitions as set forth in Wisconsin State Statutes Sections 66.0417, and Chapters 68, 97, 125, 251, 252, and 254; and Wisconsin State Administrative Code Chapters, ATCP 74 and 75, HFS 172, 173, 175, 178, 192, 195, 196, 197 and 198, COMM 90 and 95 are incorporated in this ordinance by reference and they shall be construed, read and interpreted as fully set forth herein until amended and then shall apply as amended. In addition, the following terms and phrases have meanings ascribed to them in this section:
- (1) **“Annual Permit Fee”** shall mean a fee for on-site inspection of the entire facility, and one follow-up inspection to determine that establishments identified in the ordinance are compliant with the statutes and administrative codes that govern their operation.
 - (2) **“Duplicate Permit Fee”** shall mean a fee for the replacement of an original permit.
 - (3) **“City”** shall mean the City of Oak Creek.
 - (4) **“Health Department”** shall mean the City of Oak Creek Health Department.
 - (5) **“Health Officer”** shall mean the Community Public Health Officer.
 - (6) **“Fee Schedule”** shall mean the schedule of all fees associated with this ordinance, as set forth in Section 3.40, and posted in the Health Department.
 - (7) **“Late Application Fee”** shall mean a fee that is charged for failure to comply with the application time frame specified in the applicable statute and administrative code for completion and submission of the required application for permit to the Health Department.
 - (8) **“Limited Food Service”** shall mean the serving of only individually wrapped hermetically sealed single food servings by a licensed processor with preparation on the premises limited to heating and serving with single-service articles, i.e. hermetically wrapped sandwiches or frozen pizza.
 - (9) **“Mobile Restaurant”** shall mean a restaurant operating from a movable vehicle, pushcart, trailer or boat which periodically or continuously changes location and wherein meals or lunches are prepared or served or sold to the general public, excepting those vehicles used in delivery of pre-ordered meals or lunches prepared in a licensed restaurant.
 - (10) **“Operator”** shall mean the owner, operator, or person responsible for the operations of the hotel, motel, bed and breakfast establishment, restaurant, retail food establishment or beverage establishment, vending machine commissary and/or vending machine, campground, camping resort, recreational/educational camps, or public swimming pools.
 - (11) **“Outdoor Grilling”** shall mean the cooking of food on an outdoor grill on the premises of a licensed restaurant or retail food establishment. The purpose for outdoor cooking shall not increase the production capability of the restaurant kitchen by circumventing codes applicable to indoor cooking facilities. Hot holding shall be limited to what can be held on the cooking unit.
 - (12) **“Late Fee”** shall mean a fee for failure to pay established or assessed fees in a timely manner. This refers to any fee not post-marked by June 30th.
 - (13) **“Potentially Hazardous Food”**
 - a. Shall mean a food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting:
 1. The rapid and progressive growth of infectious or toxigenic microorganisms;
 2. The growth and toxin production of Clostridium botulinum; or
 3. In raw shell eggs, the growth of Samonella enteritidis.
 - b. “Potentially hazardous food” includes an animal food (a food of animal origin) that is raw or heat-treated; a food of plant origin that is heat-treated or consists of raw seed sprouts; cut melons, and garlic and oil mixtures that are not acidified or otherwise modified at a food processing plant in a way that results in mixtures that do not support growth as specified under Subparagraph a. of this definition.
 - c. “Potentially hazardous food” does not include:

1. An air-cooled hard-boiled egg with shell intact;
 2. A food with an a/w value of 0.85 or less;
 3. A food with a pH level of 4.6 or below when measured at 24C (75F);
 4. A food in an unopened hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution; and
 5. A food for which laboratory evidence demonstrates that the rapid and progressive growth of infectious or toxigenic microorganisms or growth of *S. enteritidis* in eggs or *C. botulinum* can not occur, such as a food that has an a/w and a pH that are above the levels specified under Subparagraphs c. 2) and 3) of this definition and that may contain a preservative, other barrier to growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms.
 6. A food that may contain an infectious or toxigenic microorganism or chemical or physical contaminant at a level sufficient to cause illness, but that does not support the growth of microorganisms as specified under Subparagraph a. of this definition.
- (14) **“Pre-inspection Fee”** shall mean the fee associated with the required inspection necessary to determine compliance at the time of a change in operator or new business.
- (15) **“Re-inspection Fee”** shall mean a fee structure for the subsequent inspections needed to address compliance issues with the statutes and administrative codes that govern a respective establishment. Re-inspections are conducted due to one or more of the following: Uncorrected critical violations, more than ten total violations, repeat violations from previous inspections, major non-critical violations and when a complaint investigation identifies unsatisfactory conditions. The fee for a re-inspection will be a set fee, determined by the Board of Health and posted in the Health Department in the Fee Schedule. Criteria for re-inspection fee assessment are:
- a. If a violation is not corrected upon re-inspection (the 2nd inspection), a third re-inspection may be scheduled depending on the nature and severity of violation.
 - b. Failure to satisfactorily correct violation on the third re-inspection will result in assessment of a re-inspection fee as prescribed in Section 3.40(c)(15). A fourth re-inspection will be scheduled.
 - c. Failure to correct same existing violation on fourth visit will result in the issuance of a municipal citation and a final follow-up visit will be scheduled.
 - d. Failure to correct on fifth visit may result in suspension of license and scheduling of administrative conference or hearing.
- (16) **“Restaurant”** shall mean any building, room or place where meals are prepared, served or sold to transients or the general public, and all places used in connection with the building, room or place and shall include any public or private school lunchroom for which food service is provided by contract. “Restaurant” does not include:
- a. Taverns that serve free lunches consisting of popcorn, cheese, crackers, pretzels, cold sausage, cured fish or bread and butter;
 - b. Churches, religious, fraternal, youth or patriotic organization, service clubs and civic organizations which occasionally prepare, serve or sell meals to the general public;
 - c. Any public or private school lunchroom for which food service is directly provided by the school;
 - d. Any food service provided solely for needy persons;
 - e. Bed and breakfast establishments; or
 - f. A private individual selling food from a movable or temporary stand at a public farm sale.
- (17) **“Retail Food Establishment”** shall mean any of following, but does not include a restaurant or other establishment holding a permit to the extent that the activities of the establishment are covered by that permit:
- a. A permanent or mobile food processing facility where food is processed primarily for direct retail sale to consumers at the facility.

- b. A mobile facility from which food is sold to customers at retail.
 - c. A permanent facility from which food is sold to consumers at retail, whether or not that facility sells potentially hazardous food or is engaged in food processing.
- (18) **“Temporary Restaurant” or “Temporary Retail Food Establishment”** shall mean a restaurant or retail food establishment that operates at a fixed location in conjunction with a single event such as a fair, carnival, circus, public exhibition, anniversary sale, or occasional sales promotion for a period of no more than fourteen consecutive days or less. Mobile Establishments of this type which conduct business in the City that are licensed outside of the City of Oak Creek will be inspected and charged a nominal fee to cover the cost of inspection.
- (19) **“Vending Machine”** shall mean any self-service device offered for public use which, upon insertion of a coin or token, or by other means, dispenses unit servings of food or beverage either in bulk or in package, without the necessity of replenishing the device between each vending operation. “Vending machine” does not include a device which dispenses only bottled, prepackaged or canned soft drinks, a one cent vending device, a vending machine dispensing only candy, gum, nuts, nut meals, cookies or crackers, or a vending machine dispensing only prepackaged grade A pasteurized milk or milk products.
- (20) **“Vending Machine Commissary”** shall mean any building, room or place in the state at which foods, containers, transport equipment or supplies for vending machines are kept, handled, prepared or stored by a vending machine operator, except a place at which the operator is licensed to manufacture, distribute or sell food products under Ch. 97, Stats.
- (e) **ENFORCEMENT.** The provisions of this ordinance shall be administered by or under the direction of the City Health Officer, who in person or by duly authorized representatives shall have the right to enter, at reasonable hours, upon premises affected by this regulation to inspect the premises, secure samples or specimens, examine and copy relevant documents and records or obtain photographic or other evidence needed to enforce this ordinance.
- (f) **LICENSE AND PERMIT**
- (1) No person shall operate a retail food establishment, bed and breakfast establishment, hotel, motel, tourist rooming house, body piercing and tattooing establishments, restaurant, campground and camping resort, recreational and educational camp, public swimming pool without first obtaining a non-prorated permit from the Health Department.
- a. Except as provided in 1., permits shall expire on June 30 of each year following their issuance.
 - 1. Permits initially issued for a bed and breakfast establishment, hotel, motel, tourist rooming house, body piercing and tattooing establishments, restaurant, campground and camping resort, recreational and educational camp, public swimming pool during the period beginning on April 1 and ending June 30 shall expire June 30 of the following year.
 - 2. Permits issued to Retail Food Establishments covered under the fee schedule are issued for one year from July 1 through June 30.
 - b. The issuance of a permit may be conditioned upon the Permit licensee correcting a violation of this ordinance within a specified period of time. If the condition is not met within the specified period of time, the permit shall be voided.
 - c. The permit shall not be transferable to a location other than the one for which it was issued, nor shall a permit be transferred from one operator to another subject to the express exception of:
 - 1. As to location, temporary permits may be transferred;
 - 2. As to operator, a permit of a non-retail food establishment operator may be transferred to an individual who is an immediate family member of the operator if the operator is transferring operation of the establishment or vending machine to that immediate family member. A parent, spouse, child, step-child, grandchild, sibling or step-sibling shall be considered an immediate family member for purposes of this ordinance.
 - 3. A sole proprietorship that reorganizes as a business entity or a business entity that reorganizes as either a sole proprietorship or a different type of business entity may transfer a permit issued under this section for operation of an establishment the newly formed business entity or sole pro-

prietorship if the following conditions are satisfied:

- a. The establishment remains at the location for which the permit was issued.
 - b. At least one individual who had an ownership interest in the sole proprietorship or business entity to which the permit was issued has an ownership interest in the newly formed sole proprietorship or business entity.
- (2) Operators or Permit licensees of temporary restaurants whom the Health Department has found to be habitual violators defined as two or three violations within a 2-3 year period of this Ordinance may be denied a permit to operate. Temporary permits may be transferred to premises other than that for which it was issued, provided that the approval of the new premises is secured from the Health Department prior to operating at the new premises.
 - (3) With the exception of those establishments defined herein as “temporary”, no permits shall be granted to any person under this Ordinance without a pre-inspection by the Health Department of the premises for which the permit shall be granted.
 - (4) No permit shall be issued until all application fees have been paid.
- (g) **APPLICATION.** Application for permits shall be made in writing to the Health Department, on forms developed and provided by the Health Department, stating the name and address of the applicant and proposed operator, and the address and location of the proposed establishment, together with any such other information as may be required. The Health Department shall either approve the application or deny the permit within thirty (30) days after receipt of a complete application.
- (h) **FEES.** Fees for permits required by this chapter shall be as provided through the Fee Schedule in Section 3.40.
- (i) **PERMIT PUBLIC DISPLAY.** Every establishment required to obtain a permit pursuant to this Ordinance shall display said permit, at all times, in a conspicuous public place.
- (j) **TEMPORARY ORDERS.** Whenever, as a result of an examination, the Health Officer or designee has reasonable cause to believe that an immediate danger to health exists on a premises covered by this ordinance, the Health Officer or designee, may issue a temporary order in accordance with Wis. Stats. Section 66.0417(2), or any future amendment revision thereof.
- (k) **DENIAL, SUSPENSION OR REVOCATION OF LICENSE.** The City Health Officer, or de-

signee, of county of jurisdiction may deny any license application or suspend or revoke any license issued under this chapter for non-compliance with this code and regulations, rules and laws adopted by reference under sub. (11). The following procedure shall be followed in the denial, suspension or revocation of any license issued under this chapter.

- (1) A decision by the City Health Officer or designee, to deny, suspend or revoke a license shall be in writing and shall state, with specificity, the reasons for the City Health Officer’s or designee’s decision and shall state any applicable statutes, ordinances, rules, regulation or orders which may have been violated. The Health Officer or designee shall send to the licensee a copy of the written decision by mail or by personal service. Said notice shall inform the licensee or applicant of the right to have this decision reviewed and the procedure for such review.
- (2) Any licensee or applicant aggrieved by a decision of the Health Officer or designee, to deny, suspend or revoke a license may have the decision reviewed and reconsidered by a written request mailed or delivered to the City Health Officer within 30 working days of receipt of the notice of the City Health Officer’s or designee’s decision. The written request for review and reconsideration shall state the grounds upon which the person aggrieved contends that the decision should be reversed or modified.
- (3) Within 15 working days of receipt of the request and reconsideration, the City Health Officer shall review its initial determination. The City Health Officer may affirm, reverse or modify the initial determination. The City Health Officer shall mail or deliver to the licensee or applicant a copy of the Officer’s decision on review, and shall state the reasons for such decision. The decision shall advise the licensee or applicant of the right to an administrative appeal, the time within which appeal shall be taken and the office or person with whom the appeal shall be filed.
- (4) A licensee or applicant may appeal a decision of the City Health Officer by filing a notice of appeal within 30 days of notice of the City Health Officer’s decision on review. Failure to file a notice of appeal shall cause the Health Officer’s decision to be final. The Administrative appeal shall be filed or mailed to the City Health Officer. The City Health Officer shall immediately file said notice of appeal with the Health Department.

- (5) A licensee or applicant shall be provided a hearing on appeal within 30 days of receipt of the request for an Administrative appeal. The City Health Officer shall serve the licensee or applicant with notice of hearing by mail or personal service at least 10 days before the hearing.
- (6) The hearing shall be conducted before the Board of Health and shall be conducted in accordance with the procedures outlined in Sections 68.11(2) and (3), Wis. Stats.
- (7) Within 20 days of the hearing, the Board of Health shall mail or deliver to the appellant its written determination stating the reasons therefore.
- (8) A decision by the City Health Officer upon a request for review and reconsideration, which is not appealed to the Board of Health, or a decision by the Health Department on an appeal of a decision by the Health Officer of a request for review and reconsideration shall be a final determination under Wis. Stats. Section 68.12(2).
- (9) Any party to a proceeding resulting in a final determination may seek review thereof by certiorari within 30 days of receipt of the final determination per Wis. Stats. Section 68.13.

(l) **REGULATIONS, RULES AND LAWS ADOPTED BY REFERENCE.** The applicable laws, rules and regulations as set forth in Wisconsin State Statutes Section 66.0417, and Chapters 68, 97, 125, 251, 252 and 254; and Wisconsin State Administrative Code Chapters ATCP 74 and 75, and HFS 172, 173, 175, 178, 192, 195, 196, 197 and 198, and COMM 90 and 95 are incorporated in this regulation by reference and they shall be construed, read and interpreted as fully set forth herein until amended and then shall apply as amended. The expressed provisions of this ordinance shall control where more restrictive.

(m) **VIOLATION-PENALTIES.**

- (1) Any person who violates or refuses to comply with any provisions of this ordinance shall be subject to citation or forfeiture pursuant to Chapter 1 of the Oak Creek Code of Ordinances. The City Health Officer or the City Health Officer's designee may issue citations. Citations may be served in person or by certified mail. In addition, the Health Office may revoke or amend an applicable permit. Each day a violation exists or continues, shall be considered a separate offense.
- (2) In addition to any other remedies, the Health Department may pursue enforcement of this

section through an action in Milwaukee County Circuit Court.

(n) **COMPLIANCE WITH ORDINANCES AND PAYMENT OF TAXES, ASSESSMENTS AND CLAIMS.**

No license shall be issued under this Chapter for any premises for which taxes, assessments or other claims of the City are delinquent and unpaid or to any person delinquent in payment of such taxes, assessments or other claims to the City. It shall be a condition of holding a license under this Chapter that the licensee comply with all ordinances of the City.

Ordinance 2450, A 3/20/07, Sec. 8.10
Ordinance 2456, A 5/1/07, Sec. 8.10(n)

POLLUTION ABATEMENT

SEC. 8.20 CLEANUP OF SPILLED OR ACCIDENTALLY DISCHARGED WASTES.

- (a) **Cleanup Required.** All persons, firms, or corporations delivering, hauling, disposing, storing, discharging or otherwise handling potentially polluting substances, solid or liquid, such as but not limited to, the following: fuel oil, gasoline, solvents, industrial liquids or fluids, milk, grease trap and septic tank wastes, sewage sludge, sanitary sewer wastes, storm sewer catch-basin wastes, oil or petroleum wastes, shall immediately clean up any such spilled material to prevent its becoming a hazard to health or safety or directly or indirectly causing pollution to the lakes and streams under the jurisdiction of the City.
- (b) **Notification.** Spills or accidental release of hazardous materials or pollutants at a site or of a quantity or nature that cannot be adequately cleaned up by the responsible party or parties shall be immediately reported to the City so that assistance can be given by the proper agency.

SEC. 8.21 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 and/or into any street, sewer, ditch or drainageway, lake or stream within the jurisdiction of the City of Oak Creek.

SEC. 8.22 HAZARDOUS MATERIAL INCIDENT RESPONSE REIMBURSEMENT.

- (a) **Prohibited Discharges.** No person, firm or corporation shall discharge or cause to be discharged, leaked, or spilled upon any public or private street, alley, public or private property, or onto the ground, surface waters, subsurface waters, or aquifers, or within the City, except those areas specifically licensed for waste disposal or landfill activities and to receive such materials, any explosive, flammable or combustible solid, liquid or gas, any radioactive material at or above Nuclear Regulatory Restriction levels, etiologic agents, or any solid, liquid or gas creating a hazard, potential hazard, or public nuisance or any solid, liquid or gas having a deleterious effect on the environment.
- (b) **Containment, Cleanup and Restoration.** Any person, firm or corporation in violation of the above Subsection shall, upon direction of any appropriate City official, 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, with the offending person, firm or corporation being responsible for all ex-

penses incurred. Should any person, firm or corporation fail to engage the necessary people and equipment to comply or to complete the requirements of this Section, appropriate City officials may order the required actions to be taken by public or private resources and allow the recovery of any and all costs incurred by the City of Oak Creek as action imposed by Subsection (c).

- (c) **Emergency Services Response.** An “emergency services response” includes, but is not limited to, fire service, emergency medical service, and law enforcement service. A person, firm, or corporation who possesses or controls a hazardous substance which is discharged or who causes the discharge of a hazardous substance shall be responsible for reimbursement to the responding agencies for actual and necessary expenses incurred in carrying out their duties under this Section. Actual and necessary expenses may include but not be limited to: replacement of equipment damaged by the hazardous material, cleaning, decontamination and maintenance of the equipment specific to the incident, costs incurred in procurement and use of specialized equipment specific to the incident, specific laboratory expenses incurred in the recognition and identification of hazardous substances in the evaluation of response, decontamination, cleanup and medical surveillance, and incurred costs in future medical surveillance of response personnel as required by the responding agencies’ medical advisor(s).
- (d) **Site Access.** Access to any site, public or private, where a prohibited discharge is indicated or suspected will be provided to appropriate City officials and to City of Oak Creek Police and Fire Department personnel for the purpose of evaluating the threat to the public and monitoring containment, cleanup and restoration activities.
- (e) **Public Protection.** Should any prohibited discharge occur that threatens the life, safety or health of the public at, near, or around the site of a prohibited discharge, and the situation is so critical that immediate steps must be taken to protect life and public safety, the senior police, fire or emergency government official on the scene of the emergency may order an evacuation of the area or take other appropriate steps for a period of time until the Common Council can taken appropriate action.
- (f) **Civil Liability.** Any person, firm or corporation in violation of this Section shall be liable to the City of Oak Creek for any expenses incurred by the City or loss or damage sustained by the City by reason of such violation.

SEC. 8.23 ILLICIT DISCHARGES AND CONNECTIONS.

(a) Definitions The following definitions shall be applicable in this Section.

1. Illicit Connection: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been allowed, permitted, or approved by a government agency, prior to the adoption of this ordinance.

2. Person: means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

3. Storm Drainage System: Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

(b) Discharges Prohibited. No person shall discharge, spill or dump substances or materials which are not entirely composed of storm water into receiving bodies of water or onto driveways, sidewalks, parking lots or other areas that drain into the storm drainage system.

(c) Connections Prohibited. The construction, use, maintenance or continued existence of illicit connections to the storm drainage system is prohibited. This prohibition expressly includes, without limitation, illicit connections made prior to the adoption of this ordinance, regardless of whether the connection was permissible under law or practice applicable or prevailing at the time of connection.

(d) Exemptions. The following activities are exempt from the provisions of this section unless found to have an adverse impact on the storm water.

1. Discharges authorized by a permit issued by the Wisconsin Department of Natural Resources.

2. Discharges resulting from fire fighting activities.

3. Discharges from uncontaminated ground water, potable water source, roof drains, foundation drain and sump pump, air conditioning condensation, springs, lawn watering, individ-

ual residential car washing, water main and hydrant flushing and swimming pools if the water has been de-chlorinated.

(e) Enforcement. Whenever the City finds a person has violated a prohibition or failed to meet a requirement of this Section, the City may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

1. The elimination of illicit connections or discharges;

2. That violating discharges, practices, or operations shall cease and desist;

3. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property.

4. In the event the person fails to eliminate the illicit connections or discharge, fails to cease and desist in discharges, practices or operations in violation of this Section or fails to abate or remediate the storm water pollution or contamination hazards, that person may be subject to a forfeiture of not less than \$50.00 nor more than \$500.00 for each offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.

Ordinance #2226, A 12/3/02 Sec. 8.23

GARBAGE AND REFUSE COLLECTION

SEC. 8.40 DEFINITIONS.

The following definitions shall be applicable in this Chapter:

- (a) **Solid Waste.** Useless, unused, unwanted or discarded material resulting from housekeeping activities. Solid waste includes, but is not limited to, garbage, refuse and ashes, furniture and household goods, except appliances and non-putrescible products incidental to the above functions.
- (b) **Garbage.** Waste, animal, fish, fowl, fruit or vegetable matter incident to and resulting from the use, preparation and storage of food for human consumption, including spoiled food, but exclusive of such items when enclosed in containers of a non-combustible nature.
- (c) **Combined Refuse.** Refuse or animal or vegetable substances which have been used or intended as food for man or animal including, but not limited to, paper, cardboard, plastics, shoes and clothing, glass jars, crockery and tin containers, accumulated in the customary use of dwelling.
- (d) **Commercial Waste.** Solid waste, garbage, combustible and incombustible waste and combined refuse generated by businesses and/or activities associated therewith, mobile homes, defined as personal property in Ch. 70, Wis. Stats., and residential buildings of more than four (4) living units.
- (e) **Construction Waste.** Waste resulting from building construction, alteration, repair or demolition and includes earth and concrete when these materials are associated with contract and construction work.
- (f) **Demolition Debris.** Waste resulting from the demolition of complete buildings, such as houses, garages, barns and sheds. Demolition debris includes the earth and concrete associated with the building demolition.
- (g) **Yard Waste.** Tree branches, shrub clippings, fruit trees, yard trees, grass clippings, leaves, sod and other waste collected from the yard of the dwelling.
- (h) **Manufacturing Waste.** Waste or refuse generated in the manufacturing process and/or activities associated therewith.
- (i) **Curbside.** The area within three (3) feet of the edge of the traveled portion of any public street or alley affording reasonable access to waste collection crews from the street or alley lines, but only such portion thereof that is on the roadway side of any drainage ditch not including snowbanks.
- (j) **Container (cart).** A container is a 35, 65, or 95 gallon capacity plastic container owned and distributed by the City of Oak Creek.

- (k) **Vehicular Salvage.** Material which originates from vehicles including, but not limited to, snowmobiles, motorcycles, trailers, trucks, automobiles, buses, farm machinery and garden tractors.
- (l) **Residence.** A building containing not more than four (4) living units per building located on a public street.
- (m) **Recyclable Materials.** Recyclable materials shall have the meaning as set forth in Section 8.60(t) of this Code of Ordinances.
- (n) **Sharps.** Medical or laboratory articles that are potentially infectious and that may cause punctures or cuts including hypodermic needles, syringes, Pasteur pipettes and scalpel blades.
- (o) **Infectious Wastes.** As defined in 287.07(7)(c) 1c, Wis. Statutes and any amendments thereto, which is adopted by reference, means solid waste which contains pathogens with sufficient virulence and quantity so that exposure to the waste by a susceptible host could result in an infectious disease. The following waste categories are included within the infectious waste definition:
 - (1) **Microbiological Lab Wastes:** Cultures and lab equipment that have come in contact with infectious agents.
 - (2) **Blood and Body Fluids:** Whole blood and blood components, blood specimens, body fluids and dialysate from chronic ambulatory peritoneal dialysis (CAPD).
 - (3) **Medical Wastes:** Wastes that have had contact with patient blood or body fluids, including but not limited to wastes from the emergency department, autopsy suite, operating room and delivery room.
 - (4) **Human Tissue:** Recognizable human tissue. It must be buried, incinerated or rendered completely unrecognizable.

Ordinance # 2309 A 6/15/04 Sec. 8.40(j), (n),(o) (3)

SEC. 8.41 PREPARATION, STORAGE AND PLACEMENT OF SOLID WASTE.

- (a) Garbage shall be drained of all free liquid and shall be packaged in a container. Improperly prepared and stored garbage of a liquid or semi-liquid nature will not be collected.
- (b) Combined refuse shall be placed in a container or it will not be collected.
- (c) Cold ashes, sawdust and sweepings must be placed in plastic garbage bags or sealed in a disposable container and placed in a container. Loose ashes, sawdust and sweepings in metal containers shall not be picked up.
- (d) Pet manure from residential dwellings of any animal classified as a household pet must be placed in a plastic garbage bag and tied securely and placed in a container. Any other animal or fowl manure or noxious waste will not be picked up.

- (e) Furniture, metal, appliances, televisions, rugs, swimming pools, mattresses, earth, gravel, stone, concrete and other construction debris will not be picked up by the City with regular garbage pickup.
- (f) All garbage, food waste and refuse shall be placed only in such covered container so that weather elements will not result in refuse being scattered about the premises so as to constitute a health hazard or nuisance. All containers shall be stored upon private property and screened from public view and shall not be stored in the front yard setback.

The City shall be responsible for the repair or replacement of containers.

The City shall not be responsible for closing container lids after collection.

- (g) Solid waste, garbage and combined refuse, except as provided in Subsection (e) above and Section 8.42(c), that is collected by the City shall be placed on the same side of the street as the dwelling generating the waste. The container shall be placed on flat ground in the terrace area, not further than 3 (three) feet from the edge of the pavement and 5 (five) feet from any vertical obstruction including a power pole, mailbox, other garbage containers, recycling carts, and light poles, etc. with the designated side facing the street

No parking shall be permitted within 15 (fifteen) feet of a garbage receptacle.

Solid waste, garbage and combined refuse collected by City shall not be placed in ditches or on snow banks.

- (h) Recyclable materials shall be stored and placed in accordance with Sections 8.60 through 8.67.
- (i) No person shall dispose of infectious wastes for pickup by the Street Department. Infectious waste must be placed in containers that will protect waste handlers and the public from exposure. At a minimum, these containers must consist of double bags or a single bag that meets or exceeds 165 grams of resistance by the ASTM D 1709-75 method. Each bag must be securely sealed so as to prevent leakage or expulsion of the contents under normal handling. Each bag shall be placed in a rigid reusable or corrugated cardboard container that is labeled with a visible biohazard emblem.
- (j) Sharps shall be contained in rigid, puncture-proof containers such as metal or rigid plastic. Sharps containers shall be designed, handled or transported so as to preclude the loss of the contents. The outside container must be labeled with a visible biohazard emblem.

Sharps containers may be taken to the Health Department for proper disposal.

*Ordinance #2132 A 5/15/01,
Ordinance # 2309 A 6/15/04*

SEC. 8.42 GENERAL REQUIREMENTS COVERING COLLECTION AND DISPOSAL.

- (a) **Solid Waste Collection.** Solid waste, garbage and combined refuse, except as provided in Section 8.41(e) and Subsection (c) below, from a residence; churches, including day care centers affiliated with the church; K-12 public or private educational institutions; not for profit organizations which do not provide housing or medical care to individuals; and properties owned by the City of Oak Creek, State of Wisconsin or the United States shall be collected and disposed of on a weekly basis by the Street Department, provided that it is prepared and stored in the manner prescribed in this Chapter. Yard waste will be collected and disposed of in accordance with Sec. 8.45. The schedule for all solid waste collections and disposals shall be determined by the Street Department.

Garbage shall be placed for collection no later than 6:45 a.m.

- (b) **Commercial or Manufacturing Waste.** Commercial waste or manufacturing waste shall not be collected by the City of Oak Creek Street Division.
- (c) **Construction Waste.** Construction waste resulting from the activities of a contractor, or other non-occupant of the premises, and demolition debris will not be collected by the City of Oak Creek Street Division.
- (d) **Combined Use Buildings.** Where buildings are used for both business and residential purposes, the City shall collect residentially generated solid waste, garbage and combined refuse, in accordance with the terms of this Chapter, if the solid waste, garbage and combined refuse is placed and contained as described under Sections 8.40(j) and 8.41(f).
- (e) **Dumpsters.** Dumpsters will not be serviced in residential collection.
- (f) **Vehicular Salvage; Batteries; Oil.** Vehicular salvage, except exhaust systems, tune-up parts, shock absorbers and lights will not be collected by the City of Oak Creek. Batteries and oils are considered hazardous substances and will not be collected. Batteries and oils may be deposited at the Municipal Service Building by the owner for proper storage.
- (g) **Tires.** Tires generated from vehicles shall not be collected by the City and shall be disposed of at the owner's expense, except that tires may be deposited at the Municipal Service Building, by the owner, for a fee as set forth in Section 3.40.

(h) **Deleterious Substances.**

- (1) Any deleterious substance, the collection, destruction or disposal of which would be harmful or dangerous to personnel or equipment, shall not be included with refuse for collection. The term "deleterious substances" includes, but is not limited to:
 - a. Hazardous substances, as defined in Sec. 144.01, Wis. Stats.;
 - b. Medical waste, as defined in the Medical Waste Tracking Act of 1988, including but not limited to discarded medical equipment, needles and syringes;
 - c. Acids;
 - d. Blasting materials;
 - e. Fireworks;
 - f. Ammunition;
 - g. Paints;
 - h. Lacquers and varnishes;
 - i. Combustible alloys or chemicals and/or any radioactive materials;
 - j. Explosive materials or other flammable materials.
- (2) Paint, lacquer and varnish cans will be disposed of if the contents thereof are in non-liquid form and if the lids are removed.
- (3) An owner and/or occupant wishing to dispose of any explosive or flammable material shall request the Police Department to effect such disposal. If such materials are found, Street Division will refer the matter to the Police Department or Fire Department as warranted.

(i) **Special Collection Services Billing.** The cost of any special collection service rendered to any householder or occupant of any building necessitated because of a violation of any part of this Chapter shall be paid by the party or parties receiving such special service. If charges for special service collections are not paid within thirty (30) days, such charges shall be certified in a proper manner to have them levied as special charges against such property served and the City Clerk is hereby authorized and directed to enter such charges on the tax rolls.

(j) **Collection of Recyclable Materials.** Recyclable materials shall be collected and disposed of in accord with Subsection (g) above and Section 8.46, provided that recyclable materials shall be placed a minimum of five (5) feet from the solid waste, garbage or combined refuse that is not recyclable.

(k) **Additional Garbage Containers.** The City shall supply one garbage container per living unit receiving City garbage pick up. Additional containers can be purchased from the City at a cost to be determined by the Street Department based on the additional purchase price that the department must pay.

*Ordinance #2068 A 6/6/00
Ordinance #2309 A 6/15/04*

SEC. 8.43 RESIDENTIAL COLLECTION AND DISPOSAL.

- (a) Subject to the exemptions in Subsection (b), no item intended for collection during the regular garbage pickup shall be placed for collection at the curb any earlier than 6:45 p.m. on the day prior to the scheduled collection day. The householder or occupant shall return the containers to their original storage location after collection on the same day as collection.
- (b) The requirements of Subsection (a) shall not apply if all adult owners or occupants of a residence qualify for special registration plates for a motor vehicle as a disabled person pursuant to Sec. 341.14, Wis. Stats. If all adult owners or occupants of a residence are disabled, but are not licensed operators or owners of motor vehicles, said persons shall submit to the City Clerk a statement from a licensed physician that said person is disabled as defined in Sec. 341.14, Wis. Stats. The City Clerk shall provide the Police Department with a copy of said letter. The Police Department shall maintain a list of those residences in which all owners or occupants are disabled, by virtue of qualifying for special registration plates pursuant to Sec. 341.14, Wis. Stats., or by virtue of the statement from a licensed physician as herein provided.
- (c) The placement of any waste material within the Street Division yard or upon City property other than a pre-determined location shall be considered a public nuisance and is prohibited.

Ordinance #2132 A 5/15/01

SEC. 8.44 HOLIDAYS AND SEVERE WEATHER.

- (a) When a scheduled collection day falls on a designated holiday for City employees, the collection will be made the day as determined by the by the Street Superintendent. Designated holidays are:
 - (1) New Year's Day.
 - (2) Friday before Easter.
 - (3) Memorial Day.
 - (4) Independence Day.
 - (5) Labor Day.
 - (6) Thanksgiving Day.
 - (7) Day after Thanksgiving Day.
 - (8) Day before Christmas.
 - (9) Christmas Day.
 - (10) Day before New Year's Day.
- (b) In case of a snow emergency, as determined by the City, collection shall be made the following week on the regularly scheduled collection day.

Ordinance #2309 A 6/15/04 Sec. 8.44(a)

SEC. 8.45 YARD WASTE COLLECTION.

(a) Collection of Yard Waste.

- (1) The City will accept brush, tree trimmings, plantings, shrubs and leaves at the yard waste drop-off site located at 800 West Puetz Road from the occupants of a residence or a mobile home in the City of Oak Creek. Grass clippings will not be accepted. The yard waste will be processed and will be made available to the public.
- (2) The City will conduct a spring and fall cleanup at a time determined by the Street Department, at which time residents may place at the curb, shrubbery, stumps, plantings and other yard waste with the exception of leaves and grass clippings. Construction debris, appliances, furniture metal, televisions, rugs, swimming pools, mattresses and any other acceptable items will be collected during the bi-annual collection.
- (3) Residents with more than five (5) yards of material placed at the curb for collecting during the bi-annual collection program will be charged for the removal and disposal of the excess material. The charge for removal of the excess material will be on a time and materials basis.
- (4) In addition to the bi-annual program outlined in Subsection (a)(2) above, the City will collect and process brush and tree trimmings placed at the curb during the months of April, May, June, August and October. Beginning in the year 2005 and any year thereafter, branches placed at the curb will be collected during the months of April, June, August and October. All brush must be placed with the cut off ends facing the road and on the roadside part of the ditch or curb stacked in an orderly manner prior to the first week of the pick up month. During the first week of the month, or as soon thereafter as practicable, the City will remove the materials and process them; the resulting mulch being made available to the residents. In addition, after periods of severe weather causing downed limbs and trees, the City will collect brush and tree limbs resulting from the storm.
- (5) The City of Oak Creek will not pick up brush, tree-trimmings, and/or stumps as a result of a contractor performing work on the property. The City of Oak Creek will not pick up brush, tree trimmings, and/or stumps as a result of lot clearing.

(b) Special Pickups; Delivery of Mulch.

- (1) The Street Department will deliver mulch resulting from the processing of yard waste materials to any City of Oak Creek resident

requesting it. The resident may call the Street Department, request delivery of the material and it will be delivered as soon as practicable. The cost of this service shall be as set forth in Section 3.40.

Ordinance #2309 A 6/15/04 Sec. 8.45(a) and (b).

SEC. 8.46 SCAVENGING PROHIBITED

- (a) No scavenging shall be permitted in the City by any person without the prior written consent of the owner or occupant of the land on which debris, rubbish, garbage or trash is located.
- (b) A scavenger is a person who scavenges rubbish, garbage, trash or other materials left on the roadside or on private property for garbage or rubbish pickup.

Ordinance 1823, A 11/7/95, Sec. 8.46

SEC. 8.47 STREET DIVISION DROP OFF SITE

Occupants of a resident (Section 8.40(1) or other dwelling unit for which the occupant receives an individual property tax bill issued by the City of Oak Creek may deposit waste materials generated from their residence or dwelling unit at the Street Division drop off site provided that the waste materials comply with the requirements, limitations, and conditions established at the drop off point.

Ordinance 1997, A 4/20/99, Sect 8.47

SEC. 8.48 FREON APPLIANCES

Freon appliances including refrigerators, freezers, air conditioners and dehumidifiers, may be collected as a special pick up provided that the owner prepays the fees as set forth in Sec. 3.40, that the doors are removed from refrigerators and freezers, and that the collection is subject to the special pick up rules. Freon appliances may be delivered to the drop off yard provided that the fee as set forth in Sec. 3.40 is paid at the time of delivery.

Ordinance #2309, A 6/15/04 Sec. 8.48

RECYCLING

SEC. 8.60 DEFINITIONS.

The following definitions shall be applicable in this Chapter:

- (a) **Bi-Metal Container.** A container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.
- (b) **Container Board.** Corrugated paperboard used in the manufacture of shipping containers and related products.
- (c) **Foam Polystyrene Packaging.** Packaging made primarily from foam polystyrene that satisfies one of the following criteria:
 - (1) Is designed for serving food or beverages;
 - (2) Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.
 - (3) Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.
- (d) **HDPE.** High density polyethylene, labeled by the SPI Code #2.
- (e) **LDPE.** Low density polyethylene, labeled by the SPI Code #4.
- (f) **Magazines.** Magazines and other materials printed on similar paper.
- (g) **Major Appliance.** A residential air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator or stove.
- (h) **Multiple-Family Dwelling.** A property containing five (5) or more residential units, including those which are occupied seasonally.
- (i) **Newspaper.** A newspaper and other materials printed on newsprint.
- (j) **Non-Residential Facilities and Properties.** Commercial, retail, industrial, institutional and governmental facilities and properties. This term does not include multiple family dwellings.
- (k) **Office Paper.** High grade printing and writing papers from offices in non-residential facilities and properties. Printed white ledger and computer printout are examples of office paper generally accepted as high grade. This term does not include industrial process waste.
- (l) **Other Resins or Multiple Resins.** Plastic resins labeled by the SPI Code #7.
- (m) **Person.** Any individual, corporation, partnership, association, local governmental unit, as defined in Sec. 66.299(1)(a), Wis. Stats., state agency or authority or federal agency.
- (n) **PETE.** Polyethylene terephthalate, labeled by the SPI Code #1.
- (o) **Plastic Container.** An individual, separate, rigid plastic bottle, can, jar or carton, except for a blister

pack, that is originally used to contain a product that is the subject of a retail sale.

- (p) **Postconsumer Waste.** Solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in Sec. 144.61(5), Wis. Stats., waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste, as defined in Sec. 144.44(7)(a)1., Wis. Stats.
- (q) **PP.** Polypropylene, labeled by the SPI Code #5.
- (r) **PS.** Polystyrene, labeled by the SPI Code #6.
- (s) **PVC.** Polyvinyl chloride, labeled by the SPI Code #3.
- (t) **Recyclable Materials.** Lead acid batteries; major appliances; waste oil; yard waste; aluminum containers; corrugated paper or other container board; foam polystyrene packaging; glass container; magazines; newspaper; office paper; rigid plastic containers, including those made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or multiple resins; steel containers; waste tires; and bi-metal containers.
- (u) **Solid Waste.** Has the meaning specified in Sec. 144.01(15), Wis. Stats.
- (v) **Solid Waste Facility.** Has the meaning specified in Sec. 144.43(5), Wis. Stats.
- (w) **Solid Waste Treatment.** Any method, technique or process which is designed to change the physical, chemical or biological character or composition of solid waste. "Treatment" includes incineration.
- (x) **Waste Tire.** A tire that is no longer suitable for its original purpose because of wear, damage or defect.
- (y) **Yard Waste.** 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.

SEC. 8.61 SEPARATION OF RECYCLABLE MATERIALS.

- (a) **Separation of Recyclable Materials.** 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 recyclable materials from postconsumer waste:
 - (1) Lead acid batteries.
 - (2) Major appliances.
 - (3) Waste oil.
 - (4) Yard waste.
 - (5) Aluminum containers.
 - (6) Bi-metal containers.
 - (7) Corrugated paper or other container board.
 - (8) Glass containers.
 - (9) Magazines.
 - (10) Newspaper.

- (11) Office paper.
 - (12) Rigid plastic containers made of PETE, HDPE, and other resins or multiple resins.
 - (13) Steel containers.
 - (14) Waste tires.
- (b) **Separation Requirements Exempted.** The separation requirements of Subsection (a) above 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 postconsumer waste to a processing facility licensed by the Wisconsin Department of Natural Resources that recovers the materials specified in Subsection (a) above 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 Section 8.61(a)(5) through (14) for which a variance has been granted by the Department of Natural Resources under Sec. 159.11(2m), or NR 544.14, Wis. Adm. Code.
- (c) **Care of Separated Recyclable Materials.** To the greatest extent practicable, the recyclable materials separated in accordance with Subsection (a) above 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.

SEC. 8.62 MANAGEMENT OF LEAD ACID BATTERIES, MAJOR APPLIANCES AND WASTE OIL.

Occupants of single family and two (2) to four (4) unit residences shall manage lead acid batteries, major appliances and waste oil, as follows:

- (a) Lead acid batteries shall be deposited by the occupant at the Municipal Service Building.
- (b) Major appliances shall be collected at curbside by the Department of Public Works during spring and fall cleanup and at other times if the occupant requests special pickup and pays a fee of Fifteen Dollars (\$15.00) or may be deposited at the Municipal Service Building.
- (c) Waste oil shall be deposited by the occupant at the Municipal Service Building for proper disposal.

SEC. 8.63 PREPARATION AND COLLECTION OF RECYCLABLE MATERIALS.

Except as otherwise directed by the Street Superintendent, occupants of single-family and two (2) to four (4) unit residences shall do the following for the preparation and collection of the separated materials specified in Section 8.61(a)(5) through (14):

- (a) Aluminum containers shall flattened to the extent possible.
- (b) Bi-metal containers shall be rinsed and flattened to the extent possible.
- (c) Corrugated paper or other container board shall be bundled and tied.
- (d) Glass containers shall be rinsed, sorted by color and the lids shall be removed.
- (e) Magazines will be tied in bundles.
- (f) Newspaper shall be placed in paper grocery bags or tied in bundles.
- (g) Office paper shall be separated into white and colored papers and tied in bundles
- (h) Rigid plastic containers shall be prepared and collected as follows:
 - (1) Plastic containers made of PETE, including soda bottles, shall be rinsed and the lids shall be removed.
 - (2) Plastic containers made of HDPE, including milk, water and detergent containers shall be rinsed and the lids shall be removed.
- (i) Steel containers shall be flattened to the extent possible.
- (j) Waste tires shall be deposited at the Municipal Service Building off the rim at a cost of Two Dollars (\$2.00) per tire.

SEC. 8.64 RESPONSIBILITIES OF OWNERS OR DESIGNATED AGENTS OF MULTIPLE-FAMILY DWELLINGS.

(a) Owners or designated agents of multiple-family dwellings shall do all of the following to recycle the materials specified in Section 8.61(a)(5) through (14):

- (1) Provide adequate, separate containers for the recyclable materials.
- (2) Notify tenants in writing at the time of renting or leasing the dwelling and at least semi-annually thereafter about the requirements of this Section.
- (3) 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.
- (4) 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, location and hours of operation, and a contact person or company,

including a name, address and telephone number.

- (b) The requirements specified in Subsection (a) do not apply to the owners or designated agents of multiple-family dwellings if the postconsumer 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 Section 8.61(a)(5) through (14) from solid waste in as pure a form as is technically feasible.

SEC. 8.65 RESPONSIBILITIES OF OWNERS OR DESIGNATED AGENTS OF NON-RESIDENTIAL FACILITIES AND PROPERTIES.

- (a) Owners or designated agents of non-residential facilities and properties shall do all of the following to recycle the materials specified in Section 8.61(a)(5) through (14):
 - (1) Provide adequate, separate containers for the recyclable materials.
 - (2) Notify in writing, at least semi-annually, all users, tenants and occupants of the properties about the established recycling program.
 - (3) Provide for the collection of the materials separated from the solid waste by the users, tenants and occupants and the delivery of the materials to a recycling facility.
 - (4) 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.
- (b) The requirements specified in Subsection (a) 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 Section 8.61(a)(5) through (14) from solid waste in as pure a form as is technically feasible.

SEC. 8.66 PROHIBITIONS ON DISPOSAL OF RECYCLABLE MATERIALS SEPARATED FOR RECYCLING.

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 Section 8.61(a)(5) through (14) which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.

SEC. 8.67 ENFORCEMENT.

- (a) For the purpose of ascertaining compliance with the provisions of this Chapter, any authorized officer, employee or representative of the Street Division may inspect recyclable materials separated for recycling, postconsumer waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection areas of multiple-family dwellings and non-residential facilities and properties, and any records relating to recycling activities, which shall be kept confidential when necessary to protect proprietary information. No person may refuse access to any authorized officer, employee or authorized representative of the Street Division who requests access for purposes of inspection, and who presents appropriate credentials. No person may obstruct, hamper, or interfere with such an inspection.
- (b) Any person who violates a provision of this Chapter maybe issued a citation by a police officer.
- (c) Penalties for violating this chapter may be assessed as follows;
 - (1) Any person who violates Section 8.66 may be required to forfeit not more than Fifty Dollars (\$50.00) for a first violation, not more than Two Hundred Dollars (\$200.00) for a second violation, and not more than One Thousand Dollars (\$1,000.00) for a third or subsequent violation.
 - (2) Any person who violates a provision of this Chapter, except Section 8.66, may be required to forfeit not less than Ten Dollars (\$10.00) nor more than One Thousand Dollars (\$1,000.00) for each violation.