

TITLE 8

Health and Sanitation

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Health and Sanitation

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Sec. 8-1-1 Rules and Regulations

The Village Board, acting as 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 health nuisances and the protection of the public health and welfare and may, where appropriate, 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 Board shall be subject to the general penalty provided for in this Code.

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

- (a) **Defined.** A health nuisance is any source of filth or cause of sickness.
- (b) **Duty to Abate.** The Village Board, acting as the Board of Health, shall abate health nuisances pursuant to Ch. 823, Wis. Stats., which is adopted by reference and made a part of this Section.

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

Sec. 8-1-3 Deposit of Deleterious Substances Prohibited.

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

same from becoming a public nuisance.

Sec. 8-1-4 Destruction of Noxious Weeds.

- (a) The Village Clerk-Treasurer 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 Village which he/she owns, occupies or controls. A joint notice with other towns or municipalities may be utilized.
- (c) If the owner or occupant shall neglect to destroy any weeds as required by such notice, then the Weed Commissioner of the Village shall give five (5) days' written notice by mail to the owner or occupant of any lands upon which the weeds shall be growing to the effect that the said Weed Commissioner after the expiration of the five (5) day period will proceed to destroy or cause to be destroyed all such weeds growing upon said lands and that the cost thereof will be assessed as a tax upon the lands upon which such weeds are located under the provisions of Sec. 66.0407, Wis. Stats. 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 customary and usual 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.
- (d) As provided for in Sec. 66.0407, Wis. Stats., the Village shall require that all noxious weeds shall be destroyed prior to the time in which such plants would mature to the bloom or flower state. The growth of noxious weeds in excess of eight (8) inches in height from the ground surface shall be prohibited within the Village of Winneconne corporate limits. Noxious weeds shall include any weed, grass or similar plant growth which, if allowed to pollinate, would cause or produce hay fever in human beings or would cause a skin rash through contact with the skin. Noxious weeds, as defined in this Section and in Section 8-1-6, 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 Lancellata (English Plantain)
 - Buckthorn ShrubNoxious grasses, as defined in this Section and in Section 8-1-6, shall include but not be limited to the following:

Agrostia Alba (Redtop)
Sorghum Halepense (Johnson)
Setaria (Foxtail)

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

Ragweed
Thistles
Smartweed
Dandelions (over 8 inches in height)
Lythrum Salicaria, Lythrum Virgatum & their hybrids (commonly called Purple Loosestrife)

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

Sec. 8-1-5 Regulation of Natural Lawns.

(a) **Natural Lawns Defined.** Natural lawn as used in this Section shall include common species of grass and wild flowers native to North America which are designed and purposely cultivated to exceed eight (8) inches in height from the ground. Specifically excluded in natural lawns are the noxious grasses and weeds identified in Section 8-1-4 of this Chapter. The growth of a natural lawn in excess of eight (8) inches in height from the ground surface shall be prohibited within the Village of Winneconne corporate limits unless a Natural Lawn Management Plan is approved and a permit is issued by the Village as set forth in this Section. Natural lawns shall not contain litter or debris and shall not harbor undesirable wildlife.

(b) **Natural Lawn Management Plan Defined.**

(1) Natural Lawn Management Plan as used in this Section shall mean a written plan relating to the management and maintenance of a lawn which contains a legal description of lawn upon which the planted grass will exceed eight (8) inches in length, a statement of intent and purpose for the lawn, a detailed description of the vegetational types, plants and plant succession involved, and the specific management and maintenance techniques to be employed.

a Property owners who wish to plant and cultivate a natural lawn must submit their written plan and related information to the Village Clerk-Treasurer. "Property Owner" shall be defined to include the legal title holder and/or the beneficial owner of any such lot according to most current Village records. Natural Lawn Management Plans shall indicate the planting and cultivating of natural lawns on property legally owned by the property owner.

b Applicants are strictly prohibited from developing a natural lawn on any Village-owned property including street rights-of-way. This shall include at a minimum property located between the sidewalk and the street or a strip not less than ten (10) feet adjacent to the street where there is no sidewalk whether the area is under public or private ownership.

(2) In addition, natural lawns shall not be permitted within ten (10) feet of the abutting property owner's property unless waived in writing by the abutting property owner on the side so affected. Such waiver is to be affixed to the Lawn Management Plan. Such waiver may be revoked, in writing, by the abutting property owner at a later time, a copy to be filed with the permittee and the Village Clerk-Treasurer.

- (3) Any subsequent property owner who abuts an approved natural lawn may revoke the waiver thereby requiring the owner of the natural lawn to remove the natural lawn that is located in the ten (10) foot section abutting the neighboring property owner. Such revocation shall be put in writing and presented to the Village Clerk-Treasurer by the subsequent abutting property owner. Upon receiving the written request to revoke the original waiver, the Village Board shall contact the owner of the approved natural lawn and direct the owner to remove the natural lawn located in the ten (10) foot section abutting the neighboring property owner. The Village Board shall revise the approved Natural Lawn Management Permit accordingly. The owner of the approved natural lawn shall be required to remove the ten (10) foot section abutting the neighboring property owner within twenty (20) days of receipt of the written notification from the Village provided the notification is received sometime between May 1 and November 1. Property owners who receive notification from the Village between November 1 and April 30 shall be required to remove the ten (10) foot section abutting the neighboring property owner no later than May 20 following receipt of the notification.

(c) Application Process.

- (1) Property owners interested in applying for permission to establish a natural lawn shall file an application with the Village Clerk-Treasurer. The completed application shall include a Natural Lawn Management Plan. Upon submitting a completed application, a non-refundable filing fee as determined by Village Board will be assessed by the Village. Upon receiving payment, copies of the completed application shall be mailed by the Village to each of the owners of record of the property situated wholly or in part within three hundred (300) feet of the boundaries of the properties for which the application is made. If within fifteen (15) calendar days of mailing the copies of the complete application to the neighboring property owners the Village receives written objections from fifty-one percent (51%) or more of the neighboring property owners, the Village Clerk-Treasurer shall deny the application.
- (2) If the property owner's application is in full compliance with the Natural Lawn Management Plan requirements and less than fifty-one percent (51%) of the neighboring property owners provide written objections, the Village Clerk-Treasurer shall issue permission to install a natural lawn. Such permit shall be valid for two (2) years. Permit renewals shall follow the procedures in this Section.
- (3) **Application For Appeal.** The property owner may appeal the Clerk-Treasurer's decision to deny the natural lawn permit request to the Village Board at an open meeting. All applications for appeal shall be submitted within fifteen (15) calendar days of the notice of denial of the Natural Lawn Management Plan. The decision rendered by the Village Board shall be final and binding.

(d) Safety Precautions For Natural Grass Areas.

- (1) When, in the opinion of the Fire Chief of the Department serving the Village of Winneconne, the presence of a natural lawn may constitute a fire or safety hazard due to weather and/or other conditions, the Fire Chief may order the Weed Commissioner to order the cutting of natural lawns treated as if noxious weed of Sec. 8-1-4. As a condition of receiving approval of the natural lawn permit, the property owner shall be required to cut the natural lawn in accordance of Sec. 8-1-4.
- (2) Natural lawns shall not be removed through the process of burning unless stated and

approved as one of the management and maintenance techniques in the Lawn Management Plan, and appropriate Village open burning permits have been obtained. The Fire Chief shall review all requests to burn natural lawns and shall determine if circumstances are correct and all applicable requirements have been fulfilled to insure public safety. Burning of natural lawns shall be strictly prohibited unless a written permit to burn is issued by the Fire Chief. The Fire Chief shall establish a written list of requirements for considering each request to burn natural lawns, thereby insuring the public safety. In addition, the property owner requesting permission to burn the natural lawn shall produce evidence of property damage and liability insurance identifying the Village as a party insured. A minimum amount of acceptable insurance shall be Three Hundred Thousand Dollars (\$300,000.00).

(e) Revocation Of An Approved Natural Lawn Management Plan Permit. The Weed Commissioner, shall have the authority to revoke an approved Natural Lawn Management Plan Permit if the owner fails to maintain the natural lawn or comply with the provisions set forth in this Section. Notice of intent to revoke an approved Natural Lawn Management Plan Permit shall be appealable to the Village Board. All applications for appeal shall be submitted within fifteen (15) calendar days of receipt of the written Notice of Intent to revoke the approved Natural Lawn Management Plan. Failure to file an application for appeal within the fifteen (15) calendar days shall result in the revoking of the Natural Lawn Management Plan Permit. All written applications for appeal filed within the fifteen (15) calendar day requirement shall be reviewed by the Village Board in an open meeting. The decision rendered by the Village Board shall be final and binding.

(f) Public Nuisance Defined — Abatement After Notice.

(1) The growth of a natural lawn as defined in this Section shall be considered a public nuisance unless a Natural Lawn Management Plan has been filed and approved and a permit is issued by the Village as set forth in this Section. Violators shall be served with a notice of public nuisance by certified mail to the last-known mailing address of the property owner.

(2) If the person so served with a notice of public nuisance violation does not abate the nuisance within ten (10) days, the Weed Commissioner may proceed to abate such nuisance, keeping an account of the expense of the abatement, and such expense shall be charged to and paid by such property owner. Notice of the bill for abatement of the public nuisance shall be mailed to the owner of the premises and shall be payable within ten (10) calendar days from receipt thereof. Within sixty (60) days after such costs and expenses are incurred and remain unpaid, the Village Clerk-Treasurer shall enter those charges onto the tax roll as a special tax as provided by State statute.

(3) The failure of the Village Clerk-Treasurer to record such claim or to mail such notice or the failure of the owner to receive such notice shall not affect the right to place the Village expense on the tax rolls for unpaid bills for abating the public nuisance as provided for in this Section, Sec 8-1-4, and other applicable sections.

(g) Penalty.

(1) Any person, firm or corporation which does not abate the nuisance within the required time period or who otherwise violates the provisions of this Section shall be subject to the general penalty found in Section 1-1-6.

(2) In addition to any penalties herein provided, the Village may issue stop work orders upon owners of lots where work is unfinished under a previously issued building permit

for any violation of this Section.

Sec. 8-1-6 Regulation of Length of Lawn and Grasses.

- (a) **Purpose.** This Section is adopted due to the unique nature of the problems associated with lawns, grasses and noxious weeds being allowed to grow to excessive length in the Village of Winneconne.
- (b) **Public Nuisance Declared.** The Village Board finds that lawns, grasses, dandelions, other noxious weeds or other vegetative growth on non-agricultural lots or parcels of land, as classified under the Village Zoning Code, within the Village of Winneconne which exceed eight (8) inches in length adversely affect the public health and safety of the public in that they tend to emit pollen and other discomfoting bits of plants, constitute a fire hazard and a safety hazard in that debris can be hidden in the grass, interferes with the public convenience and adversely affects property values of other land within the Village. For that reason, any non-agricultural lawn, grass, dandelion, weed or other vegetative growth on a lot or other parcel of land which exceeds eight (8) inches in length are 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 natural lawn approved pursuant to Section 8-1-5 above.
- (c) **Nuisances Prohibited.**
- (1) No person, firm or corporation shall permit any public nuisance as defined in Subsection (b) above to remain on any premises owned or controlled by him/her within the Village.
 - (2) An exception to Subsection (c)(1) above shall be the restoration of natural vegetation as permitted in the Village Zoning Code 8-1-5.
- (d) **Inspection.** The Weed Commissioner or his/her designee shall inspect or cause to be inspected all premises and places within the Village 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, the Weed Commissioner shall immediately cause written notice to be served or sent by certified mail that the Village proposes to have the lot grass or lawn cut so as to conform with this Section and Section 8-1-5.
 - (2) The notice shall be sent by certified mail or served on the owner of the lot or parcel of land or, if he/she is not known and there is a tenant occupying the property, then to the tenant.
- (f) **Hearing.** If the owner believes that his/her grasses or weeds are not a nuisance, he/she may request a hearing before the Village Board. The request for said hearing must be made in writing to the Village Clerk-Treasurer's office within the five (5) days set forth in the Weed Commissioner's notice. Upon application or the hearing, the property owner must pay a fee as established by the Village Board. When a hearing is requested by the owner of the property, a hearing by the Village Board shall be held within seven (7) days from the date of the owner's request. The property in question will not be mowed by the Village until such time as the hearing is held by the Village Board. At the hearing, the owner may appear in person or by his/her attorney, may present witnesses in

his/her own behalf and may cross-examine witnesses presented by the Village as well as subpoena witnesses for his/her own case. At the close of the hearing, the Village Board shall make its determination in writing specifying its findings, facts, and conclusions. If the Village Board determines that a public nuisance did exist, the Village Board 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 Village Board' 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) Village's Option to Abate Nuisance. In any case where the owner, occupant or person in charge of the property shall fail to cut his/her lawn, grass, brush or weeds as set forth above, then, and in that event, the Village may elect to cut said lawn, grass or weeds as follows:

- (1)** The written notice required in Subsection (e) shall inform said person that in the event of his/her failure to abate the nuisance within the prescribed time, the Village shall abate the same and the cost thereof shall be assessed to the property owner as a special charge.
- (2)** The Village shall cut or cause to be cut all grass, brush and weeds from the subject's property and shall charge the cost of so doing including all labor, equipment, fuel and materials usage at a cost as calculated by the Weed Commissioner. The charges shall be set forth in a statement to the Village Clerk-Treasurer 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 Village Clerk-Treasurer shall enter the charges in the tax roll as a special tax against said lot or parcel of land, and the same shall be collected in all respects like other taxes upon real estate, or as provided under Sec. 66.0627, Wis. Stats.

Sec. 8-1-7 Compulsory Connection to Village Sewer and Water System.

- (a) When Required.** Whenever a sewer or water main becomes available to any building used for human habitation, the owner of the property upon which the building is located shall connect the building to such main or mains in the manner prescribed by law, except the Village Board may defer connection to such water or sewer main or mains for those properties which have existing operable septic systems or wells or whose construction was permitted by the Village of Winneconne; provided systems or wells remain legally compliant with applicable Wisconsin Department of Natural Resources and/or Winnebago county standards.
- (b) Notice.** Whenever a sewer or water main becomes available to any building used for human habitation, the Building Inspector shall notify the owner or his/her agent in writing, by certified mail addressed to the last known address of the owner or his/her agent.
- (c) Building Inspector May Cause Connection at Expense of Owner.** If the owner or his/her agent fails to comply with the notice of the Building Inspector within ten (10) days of service or mailing thereof, the Building Inspector may cause connection to be made and the expense thereof shall be assessed as a special charge against the property.
- (d) Privies, Cesspools, Etc., Prohibited After Connection With Sewer.** After connection of any building used for human habitation to a sewer main, no privy, cesspool or permanent

waterless toilet shall be used in connection with such human habitation.

Sec. 8-1-8 Unhealthy, Hazardous or Unsightly Materials on Public or Private Property.

(a) Inspections.

(1) Whenever the Building Inspector, Fire Inspector or other authorized Village official shall, upon inspection of any premises within the Village of Winneconne find that there is deposited, placed, stored or remaining on said premises any garbage, junk, rubbish, rubble, trash, abandoned, construction materials, rotting yard and orchard waste, merchandise or parts, accumulation of grease or food wastes in a grease trap or other place or depository which presents a risk of clogging or blocking a sewer system, or any other unhealthy, hazardous or unsightly materials or thing which create a fire or health hazard, or which is detrimental to the appearance, neatness and cleanliness of the immediate neighborhood or the Village of Winneconne in general, such official shall issue his/her written order to the owner and/or occupant of the premises to remove said garbage, junk, rubbish, rubble or trashy abandoned, outmoded, or non-salable merchandise or parts, construction materials, rotting yard and orchard waste, accumulation of grease or food wastes in a grease trap or other place or depository which presents a risk of clogging or blocking a sewer system, or other unhealthy, hazardous or unsightly materials or things.

(2) Said written order shall provide that such removal shall be accomplished within ten (10) days after service of said order upon the owner or occupant of the premises involved. Such written order, in addition to specifying and describing the material or things to be removed, shall also set forth on the face thereof the provisions of Subsection (b).

(3) Prosecution of violators under this Section shall not preclude other enforcement actions allowed by law, including other actions under this Code of Ordinances.

(b) Appeal. Any person feeling himself/herself aggrieved by any order of a Village official under this Section may, within ten (10) days from the date of receipt of such order, appeal such order to the Village Board.

(c) Exceptions. Nothing contained in this Section shall be construed to prohibit the depositing of rubbish, rubble, junk, trash, abandoned, outmoded or nonsalable merchandise or parts or unsightly materials or things which are:

(1) Lawfully sited pursuant to the Village Zoning Code and operated in a manner not constituting a nuisance; or

(2) Temporarily deposited due to an emergency; or

(3) Materials during construction; or

(4) Collected and piled for immediate pickup and disposal by the Village or by private means.

(d) Nonconforming Uses. It shall not be a defense to the provisions of this Section that the owner or occupant of the premises involved has a nonconforming use under the provisions of the Village Zoning Code, but the provisions of this Section shall be complied with notwithstanding that the owner or occupant of any given premises is using or occupying such premises under a valid nonconforming use.

Cross-Reference: Section 10-5-8.

Sec. 8-1-9 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 Village, 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 Inspector or his/her 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) *A Rodent-Proof Container*** shall be 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 Village.
- (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.

(c) 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.

(d) Extermination. Whenever rodent holes, burrows or other evidence of rodent infestation are found on any premises or in any building within the Village, 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.

- (e) **Rodent-Proofing.** It shall be the duty of the owner or manager of any building in the Village of Winneconne 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. 8-1-10 Composting Regulations.

- (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 organic waste produced from the growing, trimming, and removal of grass, branches [not exceeding one (1) inch 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 enclosure. Each compost enclosure shall be no larger in volume than one hundred twenty-five (125) cubic feet, and shall be no taller than forty-two (42) inches.
 - (2) All compost enclosures shall be so maintained as to prevent the attraction or harborage of rodents and pests. The presence of rodents in or near a compost enclosure shall be cause for the Village to proceed with rodent control in accordance with Section 8-1-9.
 - (3) All compost enclosures shall be so maintained as to prevent unpleasant odors.
 - (4) No compost enclosures shall be allowed to deteriorate to such condition as to be a blighting influence on the surrounding property or neighborhood or the Village in general.
 - a All compost enclosures 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 enclosures may be required as a condition of a variance being granted.
 - (6) No compost enclosures shall be located in any yard except a rear yard, as defined in the Village Zoning Code. A compost enclosure may be located in a side yard as defined in the Village Zoning Code subject to the annual variance procedure contained in Subsections (c)(5)b and must be screened from view to the street.
 - (7) Those composting enclosures which existed prior to the adoption of this Section shall be

given one (1) year to comply with the requirements set forth herein.

(d) Ingredients.

(1) No compost enclosures 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 enclosures 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.

(e) 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.

(f) Municipal Exception. Any municipal composting site maintained by the Village shall be exempt from the provisions of this Section.

Sec. 8-1-11 Discharge of Clear Waters.

(a) Discharge. No person shall cause, allow or permit any roof drain, surface drain, subsoil drain, drain from any mechanical device, gutter, ditch, pipe, conduit, sump pump or any other object or thing used for the purposes of collecting, conducting, transporting, diverting, draining or discharging clear water from any part of any private premises owned or occupied by said person to discharge into a sanitary sewer.

(b) Nuisance. The discharge into a sanitary sewer from any roof drain, surface drain, subsoil drain, drain from any mechanical device, gutter, ditch, pipe, conduit, sump pump or any other object or thing used for the purposes of collecting, conducting, transporting, diverting, draining or discharging clear water from any part of any private premises is hereby declared to be a public nuisance and a hazard to the health, safety and well-being of the residents of the Village and to the protection of the property.

(c) Groundwater. Where deemed necessary by the Village Board, every house shall have a sump pump installed for the purpose of discharging clear waters from foundation drains and ground infiltration and where the building is not serviced by a storm sewer shall either discharge into an underground conduit leading to a drainage ditch, gutter, dry well or shall discharge onto the ground surface in such other manner as will not constitute a nuisance as defined herein.

(d) Storm Water. All roof drains, surface drains, drains from any mechanical device, gutters, pipe, conduits or any other objects or things used for the purpose of collecting, conducting, transporting, diverting, draining or discharging storm waters shall be discharged either to a storm sewer, a dry well, an underground conduit leading to a drainage ditch or onto the ground surface in such other manner as will not constitute a nuisance as defined herein.

(e) Storm Sewer Lateral. Where municipal storm sewers are provided and it is

deemed necessary by the property owner and/or the Village to discharge clear waters from a parcel of land, a storm sewer lateral shall be installed and connected to the storm sewer main at the expense of the owner.

- (f) Conducting Tests.** If a designated Village agent suspects an illegal clear water discharge as defined by this Chapter or by any other applicable provision of the Wisconsin Administrative Code as it may, from time to time, be amended, he/she may, upon reasonable notice and at reasonable times, enter the private premises where such illegal clear water discharge is suspected and conduct appropriate tests to determine whether such suspected illegal clear water discharge actually exists. In addition, Village inspectors may inspect for illegal clear water discharges as a part of a routine inspection without cause.
- (g) Corrective Actions.** Owner of any building, residence or property within the village from which any water creating a nuisance as described above (b) or violating any condition of this section, shall cause such drainage to be discharged or eliminated within (5) day notice. Failure to correct action as instructed by Village shall result in Village corrective action as deemed best appropriate by the Public Works Director. All cost for corrective action shall be borne by property owner of the nuisance described above, in accordance with Village Ord. Sec. 1-3-2.

Title 8 4 Chapter 2

Pollution Abatement

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

Sec. 8-2-1 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 Village.
- (b) Notification.** Spills or accidental release of hazardous materials or pollutants at a site or of a quantity or nature that cannot adequately be cleaned up by the responsible party or parties shall be immediately reported to the Police Department so that assistance can be given by the proper agency.
- (c) Financial Liability.** The party or parties responsible for the release, escape or discharge of wastes shall be held financially liable for the cost of any cleanup or attempted cleanup deemed necessary or desirable and undertaken by the Village, or its designated agent, in an effort to minimize the polluttional effects of the discharged waste.

Sec. 8-2-2 Storage of Polluting Substances.

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

Title 8 4 Chapter 3

Recycling and Solid Waste

- 8-3-1** General Provisions
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- 8-3-12** Private Collection
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- 8-3-14** Enforcement

Sec. 8-3-1 **General Provisions.**

- (a) **Title.** The title of this Chapter is the Recycling Ordinance for the Village of Winneconne.
- (b) **Purpose.** The purpose of this Chapter is to promote recycling, composting, and resource recovery through the administration of an effective recycling program, as provided in Sec. 159.11, Wis. Stats., and Ch. NR544, Wis. Adm. Code. It is intended by this Chapter to establish regulations that reduce the amount of solid waste and other disposables in landfills and thus protect the public health and welfare and the environment. It is further intended by this Chapter to comply with mandatory recycling legislation by implementing regulations enacted by the State of Wisconsin, including Chapter 159, Wis. Stats., as may be amended from time to time. To the extent permitted by law, this Chapter is intended to serve as a municipal waste flow control ordinance in conjunction with program activities of Winnebago County and its Solid Waste Management Board.
- (c) **Statutory Authority.** This Chapter is adopted as authorized under Sec. 159.09 (3) (b), Wis. Stats.
- (d) **Abrogation and Greater Restrictions.** It is not intended by this Chapter to repeal, abrogate, annul, impair or interfere with any existing rules, regulations, ordinances or permits previously adopted or issued pursuant to law. However, whenever this Chapter imposes greater restrictions, the provisions of this Chapter shall apply.
- (e) **Interpretation.** In their interpretation and application, the provisions of this Chapter shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by Wisconsin Statutes. Where any terms or requirements of this Chapter may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this Chapter is required by Wisconsin Statutes, or by a standard in Ch. NR544, Wis. Adm. Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the Wisconsin Statutes and the Ch. NR544 standards in effect on the date of the adoption of this Chapter, or in effect on the date of the most recent text amendment to this Chapter.
- (f) **Applicability.** The requirements of this Chapter apply to all persons and entities within the Village of Winneconne.
- (g) **Administration.** The provisions of this Chapter shall be administered by the Winneconne Village Board, and its designees.

Sec. 8-3-2 **Definitions.**

- (a) For the purpose of this Chapter:
 - (1) **Aluminum cans** shall include used beverage cans only.
 - (2) **Bi-metal container** means a container for carbonated or malt beverages, which is made primarily of a combination of steel and aluminum.
 - (3) **Collector** means the contractor selected by the Village to collect solid waste.
 - (4) **Container board** means corrugated paperboard used in the manufacture of shipping containers and related products.
 - (5) **Container glass** shall include container glass only. "Glass" does not include ceramic cups, dishes, ovenware, plate glass, safety and window glass, heat resistant glass such as pyrex, lead-based glass such as crystal, or TV tubes.

- (6) **Contract Hauler.** Means an individual or entity that collects and disposes of solid waste and recyclable materials from residences, schools, businesses, and churches.
- (7) **Corrugated cardboard** shall include corrugated cardboard only; it does not include waxed cardboard or chipboard such as cereal boxes, shoe boxes, and similar materials.
- (8) **Foam polystyrene packaging** means packaging made primarily from foam polystyrene that satisfies one (1) of the following criteria:
- a Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.
 - b Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.
- (9) **Garbage** means and includes all waste resulting from the use, preparation, cooking or consumption of food, and discarded animal feces.
- (10) **Hazardous waste** means any substance or combination of substances, including any waste of a solid, semisolid, or gaseous form, which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which may pose a substantial present or potential hazard to human health or environment because of its quantity, concentration or physical, chemical or infectious characteristics. This term includes but is not limited to, substances which are toxic, corrosive, flammable, irritants, strong sensitizers or explosives as determined by the Village. "Hazardous waste" shall also include such substances, materials, and waste which are regulated under any applicable local, state, or federal law including, but without limitation, any material, waste, or substance which either:
- a Contains petroleum, crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure;
 - b Contains polychlorinated biphenyls (PCBs);
 - c Contains lead or asbestos; or
 - d Is radioactive.
- (11) **HDPE** means high density polyethylene, labeled by the SPI Code #2.
- (12) **LDPE** means low density polyethylene, labeled by the SPI Code #4.
- (13) **Magazines** means magazines and other materials printed on similar paper.
- (14) **Major appliance** means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, oven, refrigerator or stove, residential and commercial furnaces, boilers, dehumidifiers and water heaters, and allowing the disposal of microwaves if the capacitor has been removed.
- (15) **Mixed municipal solid waste.** Garbage, refuse and other solid waste from residential, commercial, industrial, and community activities which is generated and collected in aggregate, but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludge, tree and agricultural waste, tires, lead acid batteries, waste engine oil, hazardous and other materials collected, processed, and disposed of as a separate waste stream.
- (16) **Mixed papers** shall include all grades of papers, including: white, colored, ledger, shiny, coated, carbonless or NCR papers; envelopes, including windowed, labeled, and !craft; magazines, phone books, computer printout paper, glued pads and tablets, file folders, key punch cards, post-it notes, spiral notebooks, cereal boxes, shoe boxes, etc.; can include

paper clips and staples; does not include hand towels or other paper products from restrooms, or soiled napkins and paper plates; also does not include carbon paper, cellophane, or any waxed paper.

- (17) **Multiple-family dwelling** means a property containing five (5) or more residential units, including those which are occupied seasonally.
- (18) **Newspapers** shall include newspapers and newspaper advertisements printed on newsprint, but does not include catalogues, magazines, cardboard, or other paper products.
- (19) **Non-recyclable material** means any material other than a recyclable material and includes garbage, rubbish and other solid waste, including but not limited to ashes, plastic material other than the type included within recyclable materials, ceramics, broken glass of all types, window glass, Styrofoam, Pyrex, light bulbs, mirrors, china, waxed paper, waxed cardboard, furniture, carpeting, used clothing and other materials not defined as recyclable materials for purposes of this Chapter.
- (20) **Non-residential facilities and properties** means commercial, retail, industrial, institutional and governmental facilities and properties. This term does not include multiple family dwellings.
- (21) **Office paper** means high grade printing and writing papers from offices in nonresidential 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.
- (22) **Other resins or multiple resins** means plastic resins labeled by the SPI Code #7.
- (23) **Person** includes any individual, corporation, partnership, association, local governmental unit, as defined in Sec. 66.0131, Wis. Stats., state agency or authority or federal agency.,
- (24) **PETE** means polyethylene terephthalate, labeled by the SPI Code #1.
- (25) **Plastic bottles** shall include only plastic bottles clearly marked with the recycling emblem, encircling the #1 (PET or PETE) or the #2 (HDPE); does not include motor oil bottles, even if they are labeled #1 or #2.
- (26) **Plastic container** means an individual, separate and rigid bottle bottle, can, jar or carton made from plastic, except for a blister pack as defined in Sec. 100.33(1)(ad), Wis. Stats., as may be amended from time to time, that is originally used to contain a product that is a subject of retail sales defined in Sec. 100.30(2)(h), Wis. Stats, as may be amended from time to time.
- (27) **Postconsumer waste** means 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.
- (28) **PP** means polypropylene, labeled by the SPI Code #5.
- (29) **PS** means polystyrene, labeled by the SPI Code #6.
- (30) **PVC** means polyvinyl chloride, labeled by the SPI Code #3
- (31) **Recyclable material** includes lead acid batteries, major appliances, waste oil, yard waste, aluminum containers, corrugated paper and other container board, glass containers, magazines, newspapers, office paper, rigid plastic containers including those of PETE

and HDPE, steel containers, waste tires and bi-metal containers.

- (32) **Recyclable plastic** generally means high density polyethylene and polyethylene terephthalate plastic containers and specifically means any plastic containers described as recyclable on the list maintained at the office of the Village Clerk-Treasurer, which list is incorporated herein by reference and is subject to revision and updating at any time.
- (33) **Refuse** means all matters produced from industrial or community life, subject to decomposition, not defined as sewage or waste water. This term does not include appliances, stones, concrete, dirt, plaster, tires, batteries, anti-freeze, waste engine oil, yard waste and building and demolition materials.
- (34) **Solid waste** has the meaning specified in Sec. 144.01(15), Wis. Stats. "Solid waste" also means garbage, refuse, recyclable materials and all other discarded or salvageable solid materials including solid waste materials resulting from industrial, commercial, and agricultural operations, and from domestic use and public service activities, except hazardous waste.
- (35) **Solid waste facility** has the meaning specified in Sec. 144.43(5), Wis. Stats.
- (36) **Solid waste treatment** means any method, technique or process which is designed to change the physical, chemical or biological character or composition of solid waste. "Treatment" includes incineration.
- (37) **Tin cans** shall include tin coated metal cans, and steel containers.
- (38) **Waste engine oil** means any oil which was used in an internal combustion engine.
- (39) **Waste tire** means a tire that is no longer suitable for its original purpose because of wear, damage or defect.
- (40) **Yard waste** means leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than three (3) inches in diameter. This term does not include stumps, roots or shrubs in excess of three (3) inches with intact root balls. [See Sec. 8-3-9(e)].

Sec. 8-3-3 Mixed Municipal Solid Waste Collection Required.

All residences, schools, businesses, and churches in the Village shall use a Contract Hauler for the collection of mixed municipal solid waste and recyclable materials. Collection days and hours of collection shall be established by resolution of the Village Board.

Sec. 8-3-4 Mixed Municipal Solid Waste and Recyclable Collection Fees.

The Village and/or licensed Contract Hauler shall establish collection fees for both mixed municipal solid waste and recyclable materials on the basis of volume or weight. All licensed Contract Haulers providing collection service in the Village shall provide the Village Board with a copy of its fee structure upon implementation of its services.

Sec. 8-3-5 Prohibition of Recyclable Materials and Other Materials from Mixed Municipal Solid Waste.

- (a) No recyclable materials as described in this Chapter shall be placed in mixed municipal solid waste containers designated for landfill disposal. Leaves, grass clippings, yard waste, trees and tree limbs are also prohibited from the mixed municipal solid waste stream. These materials shall be deposited at the Village's compost site, or other legal methods.
- (b) Appliances, lead-acid batteries, tires, waste engine oil, dirt, sand, gravel, ash, rock, and hazardous waste are also prohibited from the mixed municipal waste stream as determined by the Winnebago County Solid Waste Board.

Sec. 8-3-6 Collection of Recyclable Materials.

All Contract Haulers shall offer residential curbside and business site collection of recyclable materials a minimum of one (1) occasion per week. Residential collection of recyclable materials shall occur on the same day as mixed municipal waste collection. Recyclable materials shall be collected and delivered to appropriate recycling facilities by all Contract Haulers. All recyclable materials shall be separated by Contract Haulers in accordance with the procedures set forth by the recycling facility. All Contract Haulers shall provide the Village with monthly statements that itemize by type all garbage/refuse and recyclable materials collected and disposed of by the Contract Hauler.

Sec. 8-3-7 Point of Storage; Point of Collection.

- (a) **Waste Storage.** It is recommended that solid waste shall be stored to the rear of a dwelling or out of plain view.
- (b) **Placement.**
 - (1) All solid waste must be placed at the curb or alley line for collection, but not before 4:00 p.m. of the date preceding a regularly scheduled collection or a previously announced date for collection of recyclable materials. All containers shall be returned to the point of storage within twelve (12) hours after collection.
 - (2) Containers must be set out by 6:00 a.m. on the day designated for collection.

Sec. 8-3-8 Preparation of Garbage and Refuse for Collection.

- (a) **Disposal Containers.** All garbage shall be drained and wrapped in paper. All refuse and garbage shall be stored in durable containers not to exceed thirty (30) gallons in capacity. A container shall be non-rusting metal, non-breakable plastic or rubber with tight fitting covers and undamaged lifting handles. Plastic bags shall be considered an adequate container for garbage for collection at the curb, provided that the bags have a thickness of no less than one and three-tenths (1.3) mils, said bags are designed for this use, and are properly secured. No other containers are permitted unless expressly approved by the Village Board. The total weight of the container and the material shall not exceed fifty (50) pounds.
- (b) **Use of Dumpsters.** Except as otherwise expressly prohibited by this Chapter, solid waste may be placed in larger mechanical containers provided that said containers are adaptable to the mechanical dumping devices currently in use by the Village of Winneconne or Contract Hauler. Mechanical containers shall be limited to one (1) cubic yard capacity unless

approval has been given by the Village Board. Any new multi-unit residencies are required to possess dumpsters for all tenants that will be visually screened from any streets by proper fencing.

- (c) **Service Base Level.** The base level of service for residential collection of garbage and refuse by the Village shall not exceed two (2) thirty-gallon cans or the equivalent thereof per week. The base level of service for schools, businesses, and churches shall not exceed one and one-half (1.5) cubic yards or the equivalent thereof per pickup. It shall be the owner's responsibility to arrange for disposal of solid waste in excess of the base level of service.
- (d) **Containers to Be Kept Sanitary.** The owners of all containers shall keep them clean and in a sanitary condition. Maintenance and repair of all containers shall be the responsibility of the owner.
- (e) **Ashes.** Ashes shall be placed in plastic bags of not less than two (2) mils thickness. No more than twenty-five (25) pounds of ashes shall be placed in each bag. Ashes must be thoroughly extinguished.
- (f) **Animal Feces.** Animal feces shall be wrapped in paper and placed in a disposable container.
- (g) **Hazardous Material.** Hazardous waste, pesticides, acids, caustics, infectious wastes, radioactive materials, flammable or explosive materials, liquid point, waste cooking and waste engine oil, lead acid batteries, tires, anti-freeze, other hazardous wastes, as well as other similar chemicals and potentially harmful wastes requiring special handling and disposal to protect and conserve the environment will not be collected and shall not be mixed with other solid waste collected by the Village.

Sec. 8-3-9 Preparation of Recyclable Materials for Collection.

- (a) **Collection Containers for Recyclables.** Recyclable materials, except when otherwise are to be separated from the solid waste as required in this Chapter, shall be placed only in containers not to exceed thirty (30) gallons in capacity nor fifty (50) pounds in weight. The Village Board shall designate and publicize the approved specifications for these containers.
- (b) **Waste Oil.** Disposal of waste engine oil, which shall be free of all contaminants, solvents, and hazardous materials, shall be permitted at County designated collection sites.
- (c) **Yard Waste.**
 - (1) Yard waste shall not be allowed in the solid waste stream and will not be picked up. Such waste shall be deposited only at Village designated collection sites during designated hours and dates set by the Director of Public Works with a fee as determined by Village Board. Such waste shall be deposited loose and only during the hours posted at that collection site. These collection sites shall be used only by Village residents or permitted commercial haulers. Yard waste, which is brought to the drop off center, shall not exceed three (3) inches in diameter and/or six (6) feet in length. A deposit of stumps, stones and dirt shall be prohibited at the collection center.
- (d) **Appliances.** Appliances and other items containing metal which include, but are not limited to engines, car parts, swing sets, piping, springs, lawn mowers and bicycles which require special arrangements for pickup must be kept separate from all other solid waste. No person, property owner, or occupant or person in charge of the property shall place such items for pickup and disposal by the Village unless the person has previously arranged for a special pickup of such

items by payment in person of a special pickup charge to the Village Clerk-Treasurer at the Village Hall, said charge as established by Village Board.

Sec. 8-3-10 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 8-3-3:
 - (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 established recycling program.
 - (3) Make arrangements with the tenants for the collection of recyclable materials from the tenants by Contract Haulers authorized by the Village and delivery to a recycling facility by said Contract Haulers.
 - (4) Notify tenants of reason 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 site, 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 designate agents of multiple-family dwellings if the postconsumer waste generated within the dwelling is treated at a processing facility licensed by the Wisconsin Department of Natural Resources that recovers for recycling designated recyclables from solid waste in as pure a form as is technically feasible.

Sec. 8-3-11 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 8-3-3:
 - (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) Make arrangements with the users and occupants for the collection of recyclable materials from the users and occupants by Contract Haulers authorized by the Village and delivery to a recycling facility by said Contract Haulers.
 - (4) Notify users, tenants and occupants of reasons to reduce and recycle, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.
- (b) The requirements specified in Subsection (a) do not apply to the owners or designate agents of non-residential facilities if the postconsumer waste generated within the facility or property is treated at a processing facility licensed by the Wisconsin Department of Natural Resources that recovers for recycling designated recyclables from solid waste in as pure a form as is technically feasible.

Sec. 8-3-12 Private Collection.

Private parties, firms or corporations may be authorized by the Village Board, on a revocable basis, to collect refuse at no cost to the Village, provided that such collection is performed in accordance with the provisions of this Chapter and produces no objectionable conditions in and on the streets of the Village.

Sec. 8-3-13 Non-Resident Refuse Disposal Prohibited.

- (a) No person residing outside the Village limits shall bring into the Village for disposal any garbage, refuse or other items of a combustible or non-combustible nature.
- (b) Any person violating the provisions of this Section shall be assessed the actual cost incurred by the Village for proper disposal, together with an administrative charge as determined by the Village Board for each disposal. Such costs shall be in addition to any forfeiture assessed for violation of this Chapter. The imposition and collection of any forfeiture prescribed by this Chapter shall not bar the right of the Village to collect the costs of disposal as herein provided.

Sec. 8-3-14 Enforcement.

- (a) For the purpose of ascertaining compliance with the provisions of this Chapter, any authorized officer, employee or representative of the Village of Winneconne 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 Village of Winneconne who requests access for purpose 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 may be issued a citation by a Village of Winneconne law enforcement officer or other authorized Village official. The issuance of a citation shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this Subsection.
- (c) Any person who violates this Chapter may be assessed a penalty.

Title 8 4 Chapter 4

Village Cemetery

- 8-4-1** Policy Statement
- 8-4-2** Purchase of Lots and Owners' Responsibilities
- 8-4-3** Transfer of Lot Ownership
- 8-4-4** Ownership Rights of Interment
- 8-4-5** Care of Lots
- 8-4-6** Privileges and Restrictions
- 8-4-7** Rules for Visitors
- 8-4-8** Interments and Disinterments; Cremains
- 8-4-9** Monuments and Markers
- 8-4-10** Miscellaneous

Sec. 8-4-1 Policy Statement.

- (a) **Purpose.** The Winneconne Cemetery is owned and maintained by the Village of Winneconne for the benefit of all citizens. It was founded in 1871 by the Winneconne Cemetery Association which conveyed the cemetery property and trust funds to the Village in 1962. The Cemetery Association made several additions to the original plat between 1871 and 1962. There have been two (2) additions under Village ownership: the John M. White Addition in 1969 and a two-acre land purchase in 1992, which has not yet been developed. Rules and regulations are established by the Village Board to insure proper maintenance and beauty and to prevent abuse and destruction. The following rules and regulations are set forth in this Chapter to govern the cemetery. The Village reserves the right to amend or change any of these Ordinances to conform to newly developed cemetery practices.
- (b) **Management.** The Village Cemetery, and its operations, shall be managed by the Cemetery Board.
- (c) The Village Board may, from time to time, acquire lands for cemetery purposes as the same required, in the manner provided by law. The Cemetery Board shall have full power and authority to exercise general supervision over said cemetery and shall establish cemetery rules.
- (d) General cemetery operations are subject to the provisions of Sec. 69.18 and Ch. 157, Wis. Stats.

Cross-Reference: Section 2-4-6.

Sec. 8-4-2 Purchase of Lots and Owners' Responsibility.

- (a) Persons or their agents desiring to purchase a lot in the cemetery are referred to the office of Village Clerk-Treasurer, where maps and records are available on location, size, cost and other pertinent information on lot ownership. Upon making a lot selection, the purchaser will sign an agreement defining the lot description; cost with perpetual care and date that payment will be made.
- (b) Upon full payment of the purchase price of the lot and perpetual care as prescribed as determined by Village Board, the Clerk-Treasurer will issue a cemetery deed, under seal, and a certificate of perpetual care, recording the deed and certificate in the cemetery records.
- (c) Lots or fractions of lots, for which lot deeds have been issued by the Village, shall not thereafter be divided except by consent of the Village. All lots are exempt from taxation and cannot be seized for debt except those owed to the cemetery, nor can they be mortgaged. All repossessed vacant grave spaces shall be subject to the same fees and charges.

Sec. 8-4-3 Transfer of Lot Ownership.

- (a) Lot owners or legal heirs may resell or transfer ownership of lots by following the procedure applicable to the situation. Forms needed to complete the procedure are available in the Village office. Upon completion, the forms must be filed with the Clerk-Treasurer,

along with applicable fee, and the reconveyance or transfer of lot ownership will be entered into the cemetery records. Fees are as determined by Village Board.

- (b) A Cemetery Deed form must be completed if the owner(s) or heir(s) are selling said lot(s). The form shall be fully executed by the seller at no expense to the Village and a copy filed with the Clerk-Treasurer.
- (c) The Cemetery Board may agree to buy back a lot or parts thereof from the owner(s) or heir(s) at the original cost paid for the lot and perpetual care, if it can be determined there are no unmarked burials on said lot. The seller(s) shall return the original deed and perpetual care certificate to the Clerk-Treasurer upon completion of the transaction.
- (d) Owner(s) or heir(s) wishing to transfer ownership of lots or parts thereof, in the form of gift or bequest, must complete a Lot Transfer form and file a copy with the Clerk-Treasurer.

Sec. 8-4-4 Ownership Rights of Internment.

- (a) The lot owner or his/her authorized agent shall have the right to use a lot or portion of a lot for burial purposes only in accordance with the terms of the cemetery rules and regulations.
 - (1) The lot owner shall have acquired the lot for internment of himself/herself and members of his/her family. However, the lot owner may grant written permission (which must be notarized and placed on file with the Village Clerk-Treasurer) for the burial of other persons. A Burial Rights form is available in the Village office for this purpose. No corpse shall be interred in a lot except the corpse of one having an interest therein, or a relative, except by the consent of all persons having an interest in the lot.
 - (2) Lot owners may choose to enlarge originally platted grave spaces, thereby reducing the number of future grave openings possible, by filing a notarized burial plan with the Clerk-Treasurer.
- (b) Unless otherwise directed in writing and filed with the Village Clerk-Treasurer, the lot owner, his/her devisees, or his/her heirs, the cemetery will permit the interment of members of his/her family at the request of any interested person upon proof of eligibility for burial as follows:
 - (1) The surviving spouse of the lot owner shall have the first right to internment or to direct the right of internment.
 - (2) When there is no surviving spouse, the devisees, or heirs of the owners, may, by agreement in writing, determine who among them shall have the right of interment or direction for internment, which agreement shall be filed with the Village Clerk-Treasurer.
 - (3) In the event the owner, his/her devisees or heirs shall not have arranged for future internments, then the devisees or the heirs, as the case may be, of such owner, shall have the right to internment in order of their need.
- (c) In case of death of a lot owner, when the cemetery lot is disposed of through a probate proceeding, a certified copy of the final court document assigning the lot shall be filed with the Village office. If there is an unprobated will, a certified copy of the will must be delivered to the Clerk-Treasurer before the Village will recognize the change of ownership. If

the deceased lot owner left no will, and there is no probate, satisfactory proof of descent must be provided. It is recommended that the lot owner(s), in making their wills, include a provision covering the cemetery lots and devise same to one person.

- (d) Whenever possible, repossessed lots may be used for burials before new areas of the cemetery are used or platted as permitted by the Wisconsin Statutes.

Sec. 8-4-5 Care of Lots.

- (a) The Village of Winneconne assumes costs for permanent care of lots, roads, buildings, equipment and trees, hedges and shrubs planted with the approval of the Cemetery Board. Funds for these costs are derived from income earned on investment of perpetual care funds and an annual budget allotment approved by the Village Board. The perpetual care fund contains money paid by the lot owner upon purchasing a lot. The fund may also be increased by gifts or bequests.
- (b) "Perpetual care" shall be construed to mean the obligation which the Village assumes to use the net annual income received from the investments of the fund and an annual budget allotment approved by the Village Board; perpetual care shall be limited to the maintenance of lawns, trees and shrubs, leaf disposal, filling sunken graves and raising of markers, caring for avenues, alleys, fences, buildings, and grounds in general. It is understood that such expenditures shall be made at the discretion of the Village. The Village shall not be bound to make a separate investment of money set aside for perpetual care from a particular lot sale, but the same shall be added to the perpetual care fund of the Village and the proceeds therefrom used by the Village in the manner as heretofore provided. Nothing herein shall be construed as obligating the Village as to any alleged existing contract regarding perpetual care. The Cemetery Board shall have sole discretion over determining the use of perpetual care funds.
- (c) Cemetery maintenance does not include the cost of repairing damage to grave markers through vandalism, acts of God or deterioration. This is the responsibility of the lot owner.

Sec. 8-4-6 Privileges and Restrictions.

- (a) Decorations.
 - (1) **Liability.** Decorations and planters are placed at the risk of the persons making such placement. The Village shall not be liable for any damage or loss of any plantings, decorations or planters. All decorations shall be placed in line with existing markers.
 - (2) **Enclosures.** No hedges, fences or enclosures of any kind will be permitted on or around lots. Wooden boxes, wire containers, glass jars, food/beverages, bottles, toys, cans and other such objects may not be placed on lots and, if so placed, will be removed by the Village without notice. Any existing enclosures are grandfathered in.
 - (3) **Artificial Flowers.** A limited amount of artificial flowers displayed in the cemetery must be in containers and placed on the marker base extension. Artificial flowers not in containers will be removed by the Village.
 - (4) **Fresh Flowers.** Fresh cut flowers may be displayed and will remain until, in the judgment of the Village, they become wilted or unsightly. Containers for cut flowers are to be an unbreakable type, placed level with the ground surface or set on the marker base extension.

- (5) **Potted Plants.** Potted plants may be set on lots, without disturbing the sod, but will be removed if unsightly.
- (6) **Wire Stands.** Wreaths on wire stands may be placed at the head of a lot, near the marker or monument, between October 15 and April 15. Wreaths remaining after April 15 will be removed by the Village.
- (7) **Funeral Flowers/Wreaths.** Funeral arrangements may remain following a burial until wilted and unsightly, after which they may be removed by the Village.

(b) Lot Landscaping.

- (1) **Work Performed By Village.** All landscaping, lot care and other work in the cemetery will be done by the Village. Lot owners are encouraged, however, to consult with the Village at any time; the advice of Village officials will be cheerfully given without charge and may be of assistance to those contemplating purchase of or improvements to a cemetery lot.
- (2) **Placement of Turf/Soil.** No soil or turf shall be raised upon any grave above the grade of the lot, or turf placed or disturbed to plant seeds or plants.
- (3) **Planting of Trees/Shrubs.** Trees and shrubs shall be planted only with the written consent of the Cemetery Board. All plantings shall be in line with existing markers or in designated planting areas shown on the cemetery maps.
- (4) **Removal of Trees/Shrubs.** Lot owners may arrange with the Cemetery Board for the removal of trees and shrubs planted in previous years that have died or hinder the full usage of a cemetery lot.

(c) Village Rights.

- (1) The Village shall retain ownership of all aisles, walkways, and designated planting areas shown on cemetery maps.
- (2) The Village reserves the right for its workers and those persons necessary to the performance of normal cemetery operation to enter upon or cross over any lot in the cemetery in the performance of such duties.
- (3) The Village, or its employees, assumes no liability for damages to property or of persons, or for physical or mental suffering arising out of the performance of its normal operations, or for loss by vandalism or other acts beyond its reasonable control.
- (4) The Village reserves the right to alter, use, change or close alleys, roadways, water mains and other physical public properties of the cemetery.

Sec. 8-4-7 Rules for Visitors.

- (a) The cemetery will be open to visitors at all times between the hours of 7:00 a.m. and dusk. Permission to enter the cemetery at any other time must be obtained from the Police Department, the Village Board or Cemetery Board.
- (b) Persons or picnic parties with refreshments, alcoholic beverages or illegal drugs are not permitted within the municipal cemetery.
- (c) Dogs will only be allowed in the cemetery when confined in a vehicle or if trained to assist persons with disabilities.
- (d) Firearms will not be allowed in the cemetery except in conjunction with military funerals and Memorial Day. At all other times, firearms, bows and arrows, sling shots and other like articles will not be allowed. Driving golf balls is prohibited.

- (e) Visitors are required to use the walks and drive whenever possible and shall not pick an flowers (either wild or cultivated), injure any shrub, tree or plant, or mar or deface any monument, stone or structure in the cemetery.
- (f) Vehicles traveling within the cemetery shall not exceed five (5) miles per hour. No vehicle shall be driven except on roads designated for that purpose, nor shall such be driven in a reckless manner.
- (g) No riding of bicycles, motor bikes, snowmobiles, motorcycles or other such vehicles will be allowed in the cemetery unless such vehicles are present in conjunction with cemetery business.
- (h) The depositing of rubbish on cemetery roads, or any part of the grounds, is strictly prohibited. Receptacles are provided for waste.
- (i) The cemetery may be closed at the direction of the Director of Public Works due to weather, grounds condition or other circumstances warranting closure.

Sec. 8-4-8 Internments and Disinternments; Cremains.

(a) Interments.

- (1) Interments are arranged through the Clerk-Treasurer's office during regular business hours. With favorable weather and ground conditions, two-day advance notice is required for the preparation and opening of a grave. A longer time may be required during times of adverse weather or ground conditions and the funeral director will be asked to arrange a reasonable extension.
- (2) The current schedule of grave opening fees is available in the Village office. Charges will vary for adult and baby burials on weekdays or on Saturdays. No burials will be made on Sundays or official Village holidays without approval of the Clerk-Treasurer. Grave opening fees shall cover restoration of the site after burial. The Village will assume no responsibility for the protection, maintenance, damage or vandalism to flowers, wreaths, or any items used in funeral or interment proceedings.
- (3) All graves shall be dug under the contract of the Village under the direction of the Public Works Department. Depth of graves shall conform to the Wisconsin State Board of Health specifications. The interment of bodies of persons who have died of contagious disease shall be made in strict accordance with the rules of the State Board of Health.
- (4) A legal burial permit and the grave opening fee shall be paid prior to interment.
- (5) One (1) burial per grave space will be allowed except that space will be allowed if the remains are cremated. [Subsection (c) below regarding cremains.]
- (6) Above ground burials will not be allowed.
- (7) Only human remains shall be buried in the cemetery.

(b) Disinternments.

- (1) A completed disinterment permit, issued by the Winnebago County Coroner's office, is required before human remains are removed from the Winneconne Cemetery. When a body has been cremated and the ashes buried, no disinterment permit is required to move the ashes.
- (2) A disinterment permit is the only authority required by law to transport disinterred remains and reinter the remains. A burial permit is not required. No death certificate is required to obtain a disinterment permit because the original death certificate has already been filed with the state and the local registrar at the place where death occurred.

Ref. Wisconsin Administrative Code H 18.05.

- (3) Disinterred corpses are declared dangerous to health and shall not be transported unless each corpse is accompanied by a separate permit from the local health officer for removal, showing the name, age, place, cause of death and medical attendant, the point to which it is to be shipped, and the undertaker in charge and attached to such permit is the consent of the Department of Health and Social Services.
 - (4) A validated disinterment permit must be presented at the Village office before any disinterment can take place. All removals will be made by the Village under the supervision of a licensed funeral director, according to Wisconsin Statutes.
- (c) Cremains.
- (1) Cremation of a dead human body shall be considered as a final disposal of that body. No additional permit covering transportation, interment or other disposal of the ashes of a cremated body is required. Cremains will be interred at the current fee schedule. Cremains must be disposed of in a respectable way. Scattering or dispersal of cremains over public grounds is not allowed. Two (2) cremains may be buried in a single grave space. One cremain may be buried in a crematorial grave space.
 - (2) Disinterment of cremains requires permission of the Village Cemetery Board.

Sec. 8-4-9 Monuments and Markers.

- (a) Grave markers and foundations will be set only by the monument company according to regulations specified by the Village. Except as herein otherwise provided, under no conditions will the Village construct monument or marker bases or erect monument or markers on bases. The Village reserves the right to require the construction of a foundation of such size, material and design as directed by the Village as will provide ample insurance against settlement or injury to the stone work. The top of the concrete foundation will be constructed flush with the ground line. Whenever possible, all markers will be set with a five (5) inch margin, with twelve (12) to fifteen (15) inches on at least one (1) end.
- (b) A marker permit application, stating the size, type and desired location of said marker must be filed with the Clerk-Treasurer's office at least one (1) week before the intended installation. Upon issuance of the marker permit, Village personnel will stake the approved location, a minimum of one (1) working day in advance of the intended installation date stated on the permit. The permit becomes void and the fee forfeited if installation is not completed within thirty (30) days of the date stated on the permit. A new application and fee will then be required to complete the installation. The lot must be paid for in full before the marker permit is issued.
- (c) All upright national and state veteran markers will be set by the Village. All others are the responsibility of the lot owner. The setting of monuments, stones and markers, and the transportation of all tools, materials, etc. within the cemetery shall be subject to the supervision and control of the Public Works Department. Unless special arrangements are made with the Village, such work will be conducted between the hours of 7:00 a.m. and 3:00 p.m., Mondays through Fridays. All work as outlined above shall be completed and debris removed immediately.
- (d) The Village reserves the right to refuse permission to erect any monument work not in keeping with the good appearance of the grounds. The Village may refuse to issue a monument permit for any monument or marker that in the opinion of the Cemetery Board

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will be unaesthetic in appearance. The size of the monument or marker must be in harmony with the size of the lot.

- (e) All monuments must be set in line with other monuments so far as possible as directed by the Cemetery Board or its designee. Only two (2) markers will be allowed on a grave space, of which one will be flush with the ground and of a size which meets the approval of the Cemetery Board.
- (f) Stone work or monument work, once placed on its foundation, shall not be removed, except by permission of the Cemetery Board.
- (g) The lot must be paid in full or other assurance given of payment before markers and monuments are set.
- (h) Temporary markers must be removed or replaced with a permanent marker within one (1) year.
- (i) Bronze government markers may be placed on the backside of a family stone.

Sec. 8-4-10 Miscellaneous.

- (a) It is urged that lot owners interest themselves in the present and future care of their lots, as a single neglected lot mars the beauty of the entire cemetery.
- (b) The Village will take reasonable precautions to protect all private property, lots and/or grave owners' property in the cemetery from loss or damage, but it distinctly disclaims all responsibility for loss or damage from causes beyond its control and especially from the acts of thieves, vandals and rioters and from all acts of Providence, including wind, tornadoes, hail, snow, rain and frost, whether the damage be indirect or proximate.