

## **Title 8**

### **HEALTH AND SAFETY**

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## Chapter 8.04

### ABANDONED AND JUNKED VEHICLES

#### Sections:

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#### **8.04.010**     **Applicability.**

The provisions of this chapter shall apply to all vehicles which are stored on either public or private property, that are in such condition as to be deemed to be junk or junked vehicles as defined in this chapter. (Ord. dated 3/10/94, § 1)

#### **8.04.020**     **Definitions.**

As used in this chapter:

“Junk vehicle” means a vehicle which is incapable of operation or use upon a highway and which has no resale value except as a source of parts or scrap, or any other vehicle not in compliance with Chapter 341 and 347 of the Wisconsin Statutes and Chapter MVD-5 of the Wisconsin Administrative Code, as may be amended from time to time. “Junk vehicle” shall also mean any vehicle without a current registration from any state.

“Owner” means the individual owner of the vehicle in question or the owner, tenant or occupant of the premises upon which a vehicle is located.

“Vehicle” means any mobile home, moped, motor bicycle, motor bus, motorcycle, motor home, motor truck, automobile, or any other vehicle as defined in Chapter 340

Wisconsin Statutes as may be amended from time to time. (Ord. dated 9/14/95 (part); Ord. dated 3/10/94, § 2)

#### **8.04.030**     **Prohibition.**

A. No person, firm, partnership or corporation shall accumulate or store any junk or junked automobiles or parts thereof outside of any building on any real estate within two thousand (2,000) feet outside of the corporate limits of a city or a village or within seven hundred fifty (750) feet of the centerline of any county trunk, state trunk or federal highway or within five hundred (500) feet of the centerline of any town road, except upon a permit issued by permission of the town board.

B. Any person, firm, partnership or corporation violating any of the provisions hereof shall, upon conviction, forfeit not less than five dollars (\$5.00) nor more than five hundred dollars (\$500.00) for each offense, and in default of payment of the forfeiture, shall be imprisoned in the county jail at the rate of one day for each twenty-five dollars (\$25.00) of forfeiture which remains unpaid. Each day that junk or junked vehicles, as defined in Section 8.04.020, shall be stored contrary to the provisions hereof shall constitute a separate and distinct offense, for which a separate forfeiture shall be imposed for each such separate and distinct offense.

C. A permit issued by the town board shall be signed by the chairman and clerk thereof and shall specify the quantity and manner of storing such junk or junked vehicles. Such permit shall be revocable at any time by such board after a hearing at which it has been found that the permit holder has failed or refused to comply with the ordinances or restrictions providing regulations

for the storage of such junk or junked automobiles or parts thereof. Such hearing may be held by the board of any town upon its own motion, or upon a complaint in writing, duly signed and verified by a complainant. Such complaint shall state the nature of the alleged failure to comply with such ordinance or regulation. A copy of the complaint together with a notice of the hearing shall be served upon the permit holder not less than ten (10) days previous to the date of hearing.

D. Any person, firm, partnership or corporation now engaged in the business of accumulating or storing and leaving accumulated or stored junk or junked automobiles, or parts thereof, outside of any building on any real estate within two thousand (2,000) feet outside the corporate limits of a city or village, or within seven hundred fifty (750) feet of the centerline of any state trunk or federal highway in any town may, upon application therefore to the governing body of such town upon showing such facts, be granted a permit for such place of accumulation or storage; any person, firm, partnership or corporation succeeding a business now engaged in accumulating or storage and leaving accumulated and stored junk or junked automobiles, or parts thereof, outside of any building on real estate as herein before provided, may likewise be granted such permit. (Ord. dated 9/14/95 (part); Ord. dated 3/10/94, § 3)

**8.04.040 Abandoned motor vehicles prohibited--Removal and disposal.**

A. No person shall abandon or leave unattended, any motor home, or other vehicle as defined in Chapter 340 Wisconsin Statutes, as may be amended from time to time, on any public highway or public or private property for such time, and under

such circumstances, that the vehicle reasonably appears to have been abandoned. Any vehicle that has been left unattended on private property without the permission of the property owner for more than forty-eight (48) hours within the town shall be deemed abandoned, except that a motor vehicle on private property shall not be considered an abandoned motor vehicle when it is out of ordinary public view, or when, after investigation by the police officer, the vehicle has been designated as not abandoned.

B. Any vehicle in violation of this section shall be deemed a public nuisance and shall be impounded until lawfully claimed or disposed of as hereinafter set forth, except that if the police officer determines that the cost of towing and storage charges for the impoundment would exceed the value of the vehicle, the vehicle may be junked or sold by the town prior to the expiration of the impoundment period upon determination by the sheriff of Racine County, or any other law enforcement official having town jurisdiction, that the vehicle is not stolen or otherwise wanted for evidence or for any other reason. All substantially complete vehicles in excess of nineteen (19) model years of age shall be disposed of in accordance with subsection C of this section.

C. Any vehicle which shall be deemed abandoned and not otherwise disposed of, shall be retained in storage for a minimum period of ten (10) days after personal service of a notice has been given to the owner and any lien holder of record to permit reclamation of the vehicle after payment of all accrued charges. In the event that personal service cannot be obtained, such notice may be sent by certified mail, with return receipt requested, to the owner and any lien holder

of record. The notice shall contain the following information:

1. Year, make, model and serial number of the vehicle;
2. The date and time when the vehicle was picked up and the place where the vehicle is being held;
3. The reason that the vehicle was picked up and is being held by the town;
4. That the failure of the owner or lien holders to exercise the right of reclamation under this chapter shall be deemed a waiver of all right, title and interest in the vehicle and a consent to the sale of the vehicle.

In the event that the vehicle is not reclaimed by an owner or lien holder, the town shall dispose of the vehicle by sealed bid, and the town shall accept the highest bid for any such abandoned motor vehicle, always provided that if the bid is deemed inadequate by the chairman of the town board or by a duly authorized town representative, all bids may be rejected. In the event that bids are rejected, or no bid shall be received, the town chairman, or duly authorized town representative may, at his discretion, order the vehicle re-advertised for bid opening at a date certain or sell the motor vehicle at a private sale or as a junk motor vehicle. Notice of sealed bids shall be by advertising as a Class 1 Notice and by posting in not less than three places throughout the town, in the same manner as ordinances and resolutions are posted. Notices of sale shall be in the same form as the certified mail notice sent to the owner or lien holders of record. Upon sale of the abandoned vehicle, the town clerk shall supply the purchaser with a completed form designated by the Motor Vehicle Division of the Department of Transportation enabling the purchaser to obtain a regular certificate of title for the

vehicle. The purchaser shall have ten (10) days to remove the vehicle from the storage area and shall pay such charges for storage as may be established by the town or the owner of the premises to which the abandoned vehicle shall be removed for each day that the vehicle remains in storage after the second business day subsequent to the sale. Ten (10) days after the sale, the purchaser shall forfeit all interest in the vehicle, and the vehicle shall be deemed abandoned and may be sold again by the same procedure as set forth in this chapter. Sales may be to any interested person and any listing of vehicles to be sold by the town shall be made available to any interested person or organization which makes written request for such list to the town clerk and upon the payment of a fee of one dollar (\$1.00) for each such list.

D. Within five days after the sale or disposal of an abandoned vehicle, as provided in this chapter, the town clerk shall advise the Motor Vehicle Division of the sale or disposition on a form supplied by the Motor Vehicle Division.

E. Upon the sale of the vehicle, the proceeds thereof shall be used to pay the cost of towing and impoundment, storage on town property at the rate of fifteen dollars (\$15.00) per day, the cost of notification and advertising, and such other costs as may be incidental to disposing of the vehicle. The excess thereof shall be held by the town treasurer for reclamation by the owner upon filing a proper claim therefore and paying all fines or forfeitures that may be imposed for violation of this chapter or any other ordinance and in the event that the proceeds from the sale are not sufficient to pay the cost of towing, impoundment, storage, advertising and related costs, the town may recover any deficiencies in a civil action

against the owner of the abandoned vehicle.  
(Ord. dated 3/10/94, § 4)

**8.04.050 Vehicle repair.**

No person shall repair a vehicle not owned by him on his property outside of a properly zoned district, nor leave the same outside for more than twenty-four (24) hrs. (Prior code § 10.09)

## Chapter 8.08

### FIRES AND FIREWORKS

#### Sections:

**8.08.010 Regulations of fires and smoke.**

**8.08.020 Garbage burning.**

**8.08.030 Sale and discharge of fireworks restricted.**

**8.08.040 Violation--Penalty.**

**8.08.010 Regulations of fires and smoke.**

A. Open Fire Regulated. No person shall kindle or start an open fire or permit the same to burn within thirty (30) feet or the nearest wall of any building, any wooden structure or within fifteen (15) feet of the paved edge of any street, road or alley. No person shall kindle or start an open fire or permit the same to burn except between noon and seven p.m. each day of the week. Each person who kindles or starts an open fire shall supervise, or cause to have supervised, the burning of the same until such fire is completely extinguished, provided dense smoke is not created and no nuisance occurs.

B. Exemption for Agricultural Burning. Burning of brush or weeds on agricultural lands including fires for crop land management, insect and rodent control is permitted, provided dense smoke is not created and no nuisance occurs. There shall be no time limit for agricultural burning but shall be supervised from time of ignition to extinguishment.

C. Contained Fire Regulated. No person shall kindle or start a fire or permit the same

to burn within fifteen (15) of the nearest wall of any building, any wooden structure or in any street or alley. Any fire kindled or started or permitted to burn within thirty (30) feet of the nearest wall of any building or of any wooden structure shall be contained in a substantial burner constructed of metal, concrete or brick, so screened or covered as to prevent the escape of burning embers. No person shall kindle or start a fire or permit the same to burn in any such burner except between noon and seven p.m. each day of the week.

D. Exemption. The provisions of this section shall not apply to the creation and maintenance of fires in the discharge of governmental functions being supervised and attended by the town dump custodian or members of the town fire department or highway maintenance crews.

E. In the event that emergency conditions exist within the town, including, but not limited to, excessive dryness, the town board or the chief of the fire department may, by order prohibit all burning, fires, fireworks, or any other activities that might cause a fire to be kindled or started. In the event that such an emergency order is issued by the town board or the fire chief, the order shall be posted in the official newspaper carrying the notices for the town. (Ord. dated 6/27/02; Ord. dated 12/14/92; Ord. dated 6/20/88; prior code § 5.11)

**8.08.020 Garbage burning.**

A. No person shall burn garbage or other material the burning of which causes an offensive or obnoxious odor within the town limits.

B. For the purpose of this section, a "residential district" is defined as a territory where the frontage on the highway for a dis-

tance of three hundred (300) feet or more is mainly occupied by dwellings or dwellings and buildings in use for business.

C. For the purpose of this section, a “business district” is defined as a territory contiguous to a highway where fifty (50) percent or more of the frontage thereon for a distance of three hundred (300) feet or more is occupied by buildings in use for business. (Prior code § 10.06)

**8.08.030 Sale and discharge of fireworks restricted.**

A. Section 167.10, Wis. Stats., regulating the sale and use of fireworks, exclusive of any penalty imposed thereby, is adopted by reference and made a part of this chapter as though set forth in full with the following exception:

Any permit issued pursuant to Section 167.10 Wis. Stats., shall specify all of the following:

1. The name, address, date of birth and telephone number of the permit holder;
2. The date on and after which fireworks may be purchased;
3. The kind and quantity of fireworks which may be purchased;
4. The date, time and location of the permitted use;
5. The name, address, telephone number and exact location of the premises where fireworks will be stored prior to display;
6. The name of the liability insurance company, policy holders name and address, liability insurance policy number, the limits of the liability insurance coverage and a statement that the town is a named insured on the policy;
7. The name, age, address, telephone number and brief description of the qualifi-

cations of the person who will be in charge of the fireworks display.

B. No fireworks shall be discharged other than on the date for which the permit is issued and not prior to sunset nor after eleven p.m. on the date.

C. No users permit for the possession or use of fireworks may be issued without the permit holder submitting proof acceptable to the clerk of the town that a policy of liability insurance for the payment of all claims that may arise by reason of injuries to person or property from the handling, use or discharge of fireworks under the permit has been procured. Any such policy of liability insurance shall be taken in the name of the town and shall be in the minimum amount of one million dollars (\$1,000,000.00) for injury to any one person. The policy of liability insurance shall be filed in the office of the clerk for the town prior to the issuance of any permit.

Prior to the issuance of any users permit, under 167.10 Wis. Stats., the permit holder shall execute an indemnity and release agreement in a form acceptable to the town.

D. Any permit holder who falsifies any information of any permit application or who uses or discharges fireworks contrary to the terms and provisions of the permit or any person possessing or using fireworks without a permit, shall forfeit to the town upon conviction thereof, not less than one hundred dollars (\$100.00) no more than five hundred dollars (\$500.00) plus the cost of prosecution and in default of payment thereof, imprisonment in the county jail.

E. There shall be a thirty-five dollar (\$35.00) non-refundable permit application fee paid to the town at the time of the application for a permit herein for the purposes of covering administrative costs leading to

the issuance of the permit provided in this section. As a further condition to the issuance of any permit provided in this section, applicant shall permit an appropriate member of the Burlington fire department to inspect the premises where fireworks will be stored prior to display. (Ord. dated 6/8/92: prior code § 9.04)

**8.08.040 Violation--Penalty.**

Except as otherwise provided, any person found to be in violation of any provisions of this chapter shall be subject to a penalty as provided in Chapter 1.20 of this code. (Prior code § 5.15 (part))



**Chapter 8.12**

**GARBAGE DISPOSAL, DUMPING AND FILL\***

**Sections:**

**8.12.010 Dumping of garbage, rubbish, in the town.**

**8.12.020 Disposal on private property.**

**8.12.030 Town landfill site.**

**8.12.040 Violation--Penalty.**

**8.12.050 Garbage/recycling collection fees.**

\* Editor's note: The title of Chapter 8.12 was amended by Ord. dated 5/13/04.

**8.12.010 Dumping of garbage, rubbish, in the town.**

A. No person shall deposit or cause to be deposited on any public highway, navigable waterway, as that term is defined by Wisconsin Statutes, or anywhere else in the town without specific written authorization from the owner of the land upon which the materials are deposited, any garbage, offal, ashes, rubbish, refuse, junk, cinders, earth, carcasses, automobile parts, manure of any animal or vegetable waste from any source whatever.

B. No person shall do anything on their own property which would create a situation in which gravel, earth, or any other material, or which would create a situation in which an unusual accumulation of water, was caused, deposited or permitted to accumulate upon a public highway in the town.

C. For the purpose of this section, the term "refuse" has the same meaning as defined in Section 8.12.020(B).

D. Any person who shall violate any provision of this section shall, upon conviction thereof, forfeit not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00) together with the cost of prosecution, and in default of payment of such forfeiture and costs shall be imprisoned in accordance with Chapter 1.20. (Editorially amended during 2001 codification; Ord. dated 1/13/92: prior code § 11.01)

**8.12.020 Disposal on private property.**

A. Statement of Purpose. The town is concerned with persons dumping or allowing the dumping of solid wastes on private property within the town not specifically classified or approved by the DNR as a solid waste facility as that term is defined and used in Chapter 289 of the Wisconsin Statutes. The town board deems it necessary, for public health, safety, and welfare purposes that the town should control the quantity and type of materials that are dumped on private property within the township or allowed to be dumped on such property. Such dumping, in the past, has altered water drainage causing substantial damage to town property, caused environmental concerns, and created unsightly landfilled areas uncontrolled by state regulation. This section is not designed to conflict with any regulatory powers granted by Wisconsin Statutes or the Wisconsin Administrative Code to the Department of Natural Resources relating to solid waste facilities or other matters regulated by Chapter 289 of the Wisconsin Statutes.

B. Solid Waste Disposal.

1. Solid Waste Disposal Prohibited. No person, firm or corporation shall dispose of or permit the disposal of any solid wastes on

any property within the town with the exception of solid waste facilities regulated by the Department of Natural Resources or other state agencies pursuant to Wisconsin law and Wisconsin Administrative Code. For the purposes of this section, "solid waste" means any garbage, refuse, sludge from a waste treatment plant, and any other discarded or salvageable materials resulting from industrial, commercial, mining and agricultural operations and from community activities, but does not include solids or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Chapter 283 Wis. Stats., or source, special nuclear or by-product material as defined under Chapter 254 Wis. Stats. The term "refuse" means combustible and non-combustible rubbish, including, but not limited to, paper, painted or treated wood, metal, glass, cloth and products thereof; litter and street rubbish, asphalt, ashes, painted and treated wood, and other debris resulting from the construction or demolition of structures. Refuse shall not include clean soil, brick, building stone, concrete, reinforced concrete, broken pavement, and unpainted or untreated wood.

2. Exceptions. The above prohibition shall not apply to or prohibit an owner of any property that is zoned A-1 within the town from disposing of trees, brush, lumber, wood products, concrete, asphalt, stone, ashes, paper and cloth products on his or her own property; provided, that such items of solid waste are generated by such owner on his or her property; and further provided, that such solid wastes are not, in any way, generated, shipped, hauled, transported or

brought in from any location outside of such owners property.

3. Clean Up and Restoration. Any person, firm or corporation in violation of this section shall, upon direction of the town board, immediately cease and desist conducting such activities and shall begin immediate actions to clean up and remove any offending materials and restore the site to its original condition, with the offending person, firm or corporation being responsible for all expenses incurred. Should any person, firm, or corporation fail to engage the necessary men and equipment to comply or to complete the requirements of this section, the town board 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 town.

C. Dumping, Depositing or Disposing of Fill Prohibited Without Permit.

1. No person, firm or corporation shall dump, deposit or dispose of any fill or allow any fill to be dumped, deposited or disposed of on any property within the town of Burlington without the written permission of the town board. For the purposes of this ordinance, "fill" means any solid materials, including, but not limited to, sand, gravel, top soil, dirt, any type of soils, brick, building stone, concrete, reinforced concrete, broken pavement, wood or rocks. An exemption from the prohibition shall apply to the dumping, depositing or disposing of clean and uncontaminated sand, gravel, top soil, or dirt on any property within the town of Burlington in accordance with the following parameters:

a. Fifty (50) cubic yards or less on property less than one acre;

b. One hundred (100) cubic yards or less on property between one acre in size and two and one-half acres in size;

c. Two hundred (200) cubic yards or less on property between two and one-half acres and five acres in size;

d. Four hundred (400) cubic yards or less on property between five acres and ten (10) acres in size;

e. Eight hundred (800) cubic yards or less on property greater than ten (10) acres in size.

The term “property” shall be established by each separate tax parcel number. The volumes of fill set forth above are total volumes of material dumped, deposited or disposed of with respect to any given property. Therefore, this ordinance shall bind any predecessors in title with respect to any amounts previously dumped, deposited or disposed of on the property in question.

2. Any person seeking the permission of the town board to dump, deposit or dispose of any fill or allow the dumping, disposal, or depositing of fill on any property within the town, shall apply for a permit by filing an application for such permit with the town board on such form and containing such information as the town board requires. A current and accurate plat of survey, prepared by a land surveyor or engineer licensed to do business in the state of Wisconsin, shall accompany the permit application, and shall include, but not be limited to, the exterior boundaries of the property; all existing planimetric (physical) features on subject site and adjacent properties such as buildings, trees, driveways, culverts, pavement, walks, drainage ditches, power poles, utility pedestals, etc., existing and proposed elevations and existing and proposed contours on subject site and adjacent properties; locations

and elevations of existing buildings on adjacent properties and any other information that may be pertinent in determining existing and proposed drainage patterns. The requestor shall also be responsible for obtaining any other applicable permits, including but not limited to, those required by the DNR and Racine County. The town, upon request, may waive the survey requirement based on the particular circumstances of the request. The permit applicant shall be responsible for all reasonable costs related to such permit, including, but not limited to, engineering fees, administrative costs, attorney’s fees, and such other costs as may be incurred by the town in acting on such permit.

3. Fees and deposits shall be set by resolution, in addition to the town’s costs as set forth in subsection (C)(2) of this section. (Ord. dated 5/24/07)

4. Any person desiring to place fill on their property which exceeds the amounts set forth herein, may make application to the town board for the same, under the terms of subsection B set forth in this section. The town may withhold approval if it determines that fill in addition to the limitations set forth in this section would redirect the natural flow of water, would affect neighboring property owners adversely, would have a negative aesthetic impact, would have a negative public health or welfare impact, or any other reason consistent with the general purposes of this section.

5. All fill projects shall be completed within ninety (90) days of granting of the permit, unless an extension is granted by the board. Completion shall entail placement, grading, landscaping, restoration and any other step as may be required according to the approval conditions. An extension may

be granted at the time of granting the permit or later, based on a showing of good cause as to why the project cannot be completed within ninety (90) days. Any person requesting an extension shall make application to the board prior to expiration of the existing permit, or a new permit, approval and fee shall be required. Failure to complete the project in timely fashion shall be deemed a violation of this section.

6. Upon completion of any fill project, the property owner shall report the total amount of cubic yards placed on the property. The town clerk shall keep a record of all fill amounts placed on a given property, so that the lifetime, cumulative, maximum limits can be applied. The lifetime maximum does not prohibit additional fill, it only establishes when a permit must first be issued. These records shall be public records, open to inspection so that subsequent owners of real estate can be apprised of any remaining limits.

7. This ordinance is adopted by the town board of the town of Burlington for the purpose of protecting the health and safety of the citizens of the town and in the interest of providing adequate, safe, and effective drainage of water within the town of Burlington, preventing unsightly deposit of materials on property in the town, protection against soil contamination and protection against altering or destroying natural drainage patterns.

8. If any person, firm or corporation is found to be in violation of this section, the town may take any steps necessary to remedy the situation, including entry upon land of the person to remove the offending fill amounts. Such persons shall be liable to the town of Burlington for any expense incurred by the town or loss or damage sustained by

the town by reason of such violation including, but not limited to, attorney's fees, engineer's fees, administrative costs, and such other fees incurred by the town by reason of violation or enforcement of this ordinance.

9. Any person, firm or corporation in violation of this section of the ordinance shall forfeit to the town of Burlington upon conviction thereof an amount not to exceed five hundred dollars (\$500.00) plus the costs of prosecution and, in default of payment thereof, imprisonment in the county jail for ten (10) days. Each day of violation shall constitute a separate offense.

D. Enforcement. Unless the town has designated another representative, the town building inspector shall be responsible for enforcement of this chapter. Such person shall have the right to reasonably enter upon land, with advance notice, to inspect any potential violations. If a violation is discovered, he/she shall notify the owner, agent or occupant of the property causing or allowing such violation of this section by written notice of inspection. Such persons shall include in such notification the specific condition or conditions found which amounts to a violation, the correction necessary to cure any such violation in a specific and reasonable time to bring about compliance with this section. Each such condition amounting to a violation of this section shall be treated as a separate and distinct violation. In the event that the owner, agent or occupant of such private property fails to correct any such violation within twenty-four (24) hours after the time allowed for bringing about compliance, the town board, upon written referral of such enforcement person, shall contract to bring about compliance at the expense of the owner of such property.

E. Civil Liability. Any person, firm or corporation in violation of this section shall be liable to the town for any expenses incurred by the town or loss or damage sustained by the town by reason of such violation including, but not limited to, attorney's fees, engineer's fees, administrative costs, and such other fees incurred by the town by reason of the violation or enforcement of this section.

F. Penalties. Any person, firm or corporation in violation of this section shall forfeit to the town upon conviction thereof, not to exceed two hundred dollars (\$200.00) plus the costs of prosecution in default of payment thereof, imprisonment in the county jail for ten (10) days. Each day of violation shall constitute a separate offense. (Ord. dated 9/9/04; Ord. dated 5/13/04; editorially amended during 2001 codification; Ord. dated 6/13/96; prior code § 9.23)

**8.12.030 Town landfill site.**

A. The town landfill site shall be operated under such rules and regulations as the town board shall from time to time establish.

B. The town landfill site shall be used only by full-time or summer residents of the town. Summer residents may use the site only while they are in residence within the town.

C. Fees for use of the landfill site shall be set by resolution of the town board.

D. No refuse shall be accepted unless all of the total material contained therein, as determined by volume, shall be originated within the town. Any owner or operator of a vehicle violating this provision may be prohibited from using the town landfill for a period of thirty (30) days or such shorter period of time as the town board may prescribe.

E. No owner or operator of a vehicle shall dump upon the town landfill site any refuse which shall have originated outside of the town.

F. No person shall loiter in the town landfill site or pick or remove any refuse from the town landfill site.

G. No refuse shall be accepted unless there is attached to the vehicle a current sticker issued by the town. (Editorially amended during 2001 codification; Ord. dated 9/27/88; Ord. dated 7/18/88; prior code § 11.03)

**8.12.040 Violation--Penalty.**

Any person found to be in violation of any provision of this chapter shall be subject to a penalty as provided in Chapter 1.20 of this code. (Prior code § 11.05)

**8.12.050 Garbage/recycling collection fees.**

The town shall, by resolution, establish an annual fee for garbage and recycling collection in the town. The fee to be established shall be per residential unit, as determined by the uniform numbering system. That is, each uniform number on which a habitable residence is situated, shall be assessed one annual fee. (Ord. dated 11/14/02)

## Chapter 8.16

### PROHIBITED DISCHARGES

#### Sections:

- 8.16.010 Discharges restricted.**
- 8.16.020 Containment, cleanup and restoration.**
- 8.16.030 Site access.**
- 8.16.040 Public protection.**
- 8.16.050 Enforcement.**
- 8.16.060 Civil liability.**
- 8.16.070 Violations--Penalties.**

#### **8.16.010 Discharges restricted.**

No person, firm or corporation shall discharge or cause to be discharged, leaked, leached, spilled upon any public street, alley, or public property, or onto the ground, surface waters, subsurface waters, or aquifers, or on any private property within the town, 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. (Ord. dated 9/14/87, § 1 (part): prior code § 9.22(1))

#### **8.16.020 Containment, cleanup and restoration.**

Any person, firm, or corporation in violation of the above section shall, upon direc-

tion of any town officer/approved authority, 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 expenses incurred. Should any person, firm or corporation fail to engage the necessary men and equipment to comply or to complete the requirements of this section, the town officer/approved authority 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 town. (Editorially amended during 2001 codification; Ord. dated 9/14/87, § 1 (part): prior code § 9.22(2))

#### **8.16.030 Site access.**

Access to any site, public or private, where a prohibited discharge is indicated or suspected will be provided to the town officer/approved authority and to town police and fire department personnel for the purpose of evaluating the threat to the public and monitoring containment, cleanup and restoration activities. (Editorially amended during 2001 codification; Ord. dated 9/14/87, § 1 (part): prior code § 9.22(3))

#### **8.16.040 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 that the situation is so critical that immediate steps must be taken to protect life and limb, the town officer/approved authority, or the senior town police or fire official on the scene of the emergency may order an evacuation of the area or take other appropriate protective steps for a period of time until the town

board can take appropriate action. (Editorially amended during 2001 codification; Ord. dated 9/14/87, § 1 (part): prior code § 9.22(4))

**8.16.050 Enforcement.**

The town officer/approved authority, as well as the town police officers, shall have authority to issue citations or complaints under this chapter. (Editorially amended during 2001 codification; Ord. dated 9/14/87, § 1 (part): prior code § 9.22(5))

**8.16.060 Civil liability.**

Any person, firm or corporation in violation of this chapter shall be liable to the town for any expenses incurred by the town or loss or damage sustained by the town by reason of such violations. Further, such persons, firms or corporations shall be additionally responsible for certain set fees for any services, materials or labor provided, as established by resolution of the town board. (Ord. dated 10/10/02: editorially amended during 2001 codification; Ord. dated 9/14/87, § 1 (part): prior code § 9.22(6))

**8.16.070 Violations--Penalties.**

Any person, firm or corporation in violation of this chapter shall forfeit to the town upon conviction thereof not to exceed two hundred dollars (\$200.00) plus the costs of prosecution and in default of payment thereof, imprisonment in the county jail for ten (10) days. Each day of violation shall constitute a separate offense. (Ord. dated 9/14/87, § 1 (part): prior code § 9.22(7))

## Chapter 8.20

### RECYCLING

#### Sections:

- 8.20.010 Short title.**
- 8.20.020 Purpose.**
- 8.20.030 Statutory authority.**
- 8.20.040 Abrogation and greater restrictions.**
- 8.20.050 Interpretation.**
- 8.20.060 Applicability.**
- 8.20.070 Administration.**
- 8.20.080 Definitions.**
- 8.20.090 Separation of recyclable materials.**
- 8.20.100 Separation requirements exempted.**
- 8.20.110 Care of separated recyclable materials.**
- 8.20.120 Management of lead acid batteries, major appliances, waste oil and yard waste.**
- 8.20.130 Preparation and collection of recyclable materials.**
- 8.20.140 Responsibilities of owners or designated agents of multiple-family dwellings.**
- 8.20.150 Responsibilities of owners or designated agents of nonresidential facilities and properties.**
- 8.20.160 Prohibitions on scavenging.**
- 8.20.170 Prohibitions on use of non-transparent containers.**
- 8.20.180 Prohibitions on disposal of recyclable materials.**
- 8.20.190 Enforcement.**

#### **8.20.010 Short title.**

This chapter shall be known as the “recycling ordinance for the town of Burlington.” (Ord. dated 4/28/94: prior code § 11.08(1))

#### **8.20.020 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 Section 159.09(3)(b), Wis. Stats., and Chapter NR 544, Wis. Administrative Code. (Ord. dated 4/28/94: prior code § 11.08(2))

#### **8.20.030 Statutory authority.**

This chapter is adopted as authorized under Section 159.09(3)(b), Wis. Stats., and the town. (Ord. dated 4/28/94: prior code § 11.08(3))

#### **8.20.040 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. (Ord. dated 4/28/94: prior code § 11/08(4))

#### **8.20.050 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 the 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 Stat-



utes, or by a standard in Chapter NR.544, Wis. Administrative Code, and where the chapter provision is unclear, the provision shall be interpreted in light of the Wisconsin Statutes and the Chapter NR 544 standards in effect on the date of the adoption of the ordinance codified in this chapter, or in effect on the date of the most recent test amendment to this chapter. (Ord. dated 4/28/94: prior code § 11.08(5))

#### **8.20.060 Applicability.**

The requirements of this chapter apply to all persons within the town. (Ord. dated 4/28/94: prior code § 11.08(7))

#### **8.20.070 Administration.**

The provisions of this chapter shall be administered by the town board. (Ord. dated 4/28/94: prior code § 11.08(8))

#### **8.20.080 Definitions.**

For the purposes of this chapter:

“Bi-metal container” means a container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.

“Container board” means corrugated paperboard used in the manufacture of shipping containers and related products.

“HDPE” means high density polyethylene plastic containers marked by the SPI code No. 2.

“LDPE” means low density polyethylene plastic containers marked by the SPI code No. 2.

“Magazines” means magazines and other materials printed on similar paper.

“Major appliance” means a residential or commercial air condition, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator or stove.

“Mixed or other plastic resin types” means plastic containers marked by the SPI code No. 7.

“Multiple-family dwelling” means a property containing five or more residential units, including those which are occupied seasonally.

“Newspaper” means a newspaper and other materials printed on newsprint.

“Nonresidential facilities and property” means commercial, retail, industrial, institutional and governmental facilities and properties. This term does not include multiple-family dwellings.

“Office paper” means 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.

“Person” includes any individual, corporation, partnership, association, local governmental unit, as defined in Section 66.299(1)(a), Wis. Stats., state agency or authority or federal agency.

“PETE” means polyethylene terephthalate plastic containers marked by the SPI code No. 1.

“Post-consumer waste” means solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in Section 144.44(7)(a)1., Wis. Stats.

“PP” means polypropylene plastic containers marked by the SPI code No. 5.

“PS” means polystyrene plastic containers marked by the SPI code No. 6.

“PVC” means polyvinyl chloride plastic containers marked by the SPI code No. 3.

“Recyclable materials” includes lead acid batteries; major appliances; waste oil; yard waste; aluminum containers; corrugated pa-

per or other container board; foam polystyrene packaging; glass container; magazines; newspapers; office paper; plastic containers, including those made of PETE, HDPE, PVC, LDPE, PP, PS, and mixed or other plastic resin types; steel containers; waste tires; and bi-metal containers.

“Solid waste” has the meaning specified in Section 144.01(15), Wis. Stats.

“Solid waste facility” has the meaning specified in Section 144.43(5), Wis. Stats.

“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.

“Waste tire” means a tire that is no longer suitable for its original purpose because of wear, damage or defect.

“Yard waste” means leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than six inches in diameter. This term does not include stumps, roots, or shrubs in intact root balls. (Ord. dated 4/28/94: prior code § 11/08(10))

#### **8.20.090 Separation of recyclable materials.**

Occupants of single-family and two to four unit residences, multiple-family dwellings and nonresidential facilities and properties shall separate the following materials from post-consumer waste:

- A. Lead acid batteries;
- B. Major appliances;
- C. Waste oil;
- D. Yard waste;
- E. Aluminum containers;
- F. Bi-metal containers;
- G. Corrugated paper or other container board;

- H. Foam polystyrene packaging;
- I. Glass containers;
- J. Magazines or other materials printed on similar paper;
- K. Newspapers or other materials printed on newsprint;
- L. Office paper;
- M. Plastic containers made of PETE, HDPE, PVC, LDPE, PP, PS, and mixed or other plastic resin types;
- N. Steel containers;
- O. Waste tires. (Ord. dated 4/28/94: prior code § 11.08(11))

#### **8.20.100 Separation requirements exempted.**

These separation requirements of Section 8.20.090 do not apply to the following:

- A. Occupants of single-family and two to four unit residences, multiple-family dwellings and nonresidential facilities and properties that send their post-consumer waste to a processing facility licensed by the Wisconsin Department of Natural Resources that recovers the materials specified in Section 8.20.090 from solid waste in as pure a form as is technically feasible;
- B. Solid waste which is burned as a supplemental fuel at a facility if less than thirty (30) percent of the heat input of the facility is derived from the solid waste burned as supplemental fuel;
- C. A recyclable material specified in Section 8.20.090 for which a variance or exemption has been granted by the Department of Natural Resources under Section 159.07(7)(d) or 159.11(2m), Wis. Stats., or Section NR 544.14, Wis. Administrative Code. (Ord. dated 4/28/94: prior code § 11.08(12))

**8.20.110 Care of separated recyclable materials.**

To the greatest extent practicable, the recyclable materials separated in accordance with Section 8.20.090 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. (Ord. dated 4/28/94: prior code §11.08(13))

**8.20.120 Management of lead acid batteries, major appliances, waste oil and yard waste.**

Occupants of single-family and two to four unit residences, multiple-family dwellings and nonresidential facilities and properties shall manage lead acid batteries, major appliances, waste oil, and yard waste as follows:

- A. Lead acid batteries will not be accepted by the town;
- B. Major appliances shall be accepted only at times and places designated, from time to time, by the town;
- C. Waste oil shall be accepted only at times and places designated, from time to time, by the town;
- D. Yard waste will be accepted by the town at the town's former landfill site on the second and fourth Saturday of each month. (Editorially amended during 2001 codification; Ord. dated 4/28/94: prior code § 11.08(14))

**8.20.130 Preparation and collection of recyclable materials.**

Except as otherwise directed by the town, occupants of single-family and two to four unit residences shall do the following for the preparation and collection of the separated materials specified in Section 8.20.090(E) through (O).

- A. Aluminum containers shall be clean; flattened if possible.
- B. Bi-metal containers shall be clean; paper removed; ends removed and flattened, if possible.
- C. Corrugated paper or other container board shall be cut and flattened; metal removed.
- D. Foam polystyrene packaging shall be clean. Check with attendant on items currently acceptable.
- E. Glass containers shall be clean with metal rings and caps removed.
- F. Magazines or other materials printed on similar paper shall be bundled using paper bags. No plastic or string.
- G. Newspapers or other materials printed on newsprint shall be bundled using paper bags. No plastic or string.
- H. Office paper shall not be accepted by the town.
- I. Plastic containers shall be prepared and collected as follows:
  - 1. Plastic containers made of PETE, including milk jugs and other such containers shall be cleaned and flattened.
  - 2. Plastic containers made of HDPE, limited to soda bottles, shall be cleaned and flattened.
  - 3. Plastic containers made of PVC, LDPE, PP and PS or made of other resins or multiple resins will not be accepted by the town.

J. Steel containers shall be clean; paper removed; ended removed; flattened.

K. Waste tires shall be accepted with required fee at transfer site when attendant is on duty. (Ord. dated 4/28/94: prior code § 11.08(15))

**8.20.140 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 for recycling the materials specified in Section 8.20.090(E) through (O):

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 semiannually thereafter about the established recycling program;
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 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 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 of this section do not apply to the owners or designated agents of multiple-family dwellings if the post-consumer waste generated within the dwelling is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in Section 8.20.090(E) through (O) from solid waste in

as pure a form as is technically feasible. (Ord. dated 4/28/94: prior code § 11.08(16))

**8.20.150 Responsibilities of owners or designated agents of nonresidential facilities and properties.**

A. Owners or designated agents of non-residential facilities and properties shall do all of the following for recycling the materials specified in Section 8.20.090(E) through (O):

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 of this section do not apply to the owners or designated agents of nonresidential 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 8.20.090(E) through (O) from solid waste in as pure a form as is technically feasible. (Ord. dated 4/28/94: prior code § 11.08(17))

**8.20.160 Prohibitions on scavenging.**

It is unlawful for any person, firm or corporation to take, remove, scavenge or glean any recyclable materials that have been delivered to the town for storage, disposal, or recycling or to remove, without the express written authority of the town board, any recyclable materials from any recycling collection center or place situated within the town. This prohibition shall not apply to anyone with whom the town has contracted for the collection and disposal recyclable materials. (Ord. dated 4/28/94: prior code § 11.080(18) (part))

**8.20.170 Prohibitions on use of non-transparent containers.**

No person may dispose of in a solid waste disposal facility, private collection center, or recycling center, any materials that are not contained in a transparent container. (Ord. dated 4/28/94: prior code § 11.080(18)(part))

**8.20.180 Prohibitions on disposal of recyclable materials.**

No person may dispose of in a solid waste disposal facility or burn in a solid waste treatment facility any of the materials specified in Section 8.20.090(E) through (O) which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility. (Ord. dated 4/28/94: prior code § 11.080(19))

**8.20.190 Enforcement.**

A. Any authorize officer, employee or representative of the town may inspect recyclable materials separated for recycling, post-consumer waste intended for disposal, collection sites and facilities, collection ve-

hicles, collection areas of multiple-family dwellings and nonresidential facilities and properties, solid waste disposal facilities and solid waste treatment facilities, and any records relating to recycling activities, for the purpose of ascertaining compliance with the provisions of this chapter. No person may refuse access to any authorized officer, employee or authorized representative of the town 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 may be issued a citation by the town to collect forfeitures. The issuance of a citation shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this subsection.

C. Penalties for violating this chapter may be assessed as follows:

1. Any person who violates Section 8.20.160 may be required to forfeit fifty dollars (\$50.00), plus costs, for a first violation, two hundred dollars (\$200.00), plus costs, for a second violation and not more than two thousand dollars (\$2,000.00), plus costs, for a third or subsequent violation.

2. Any person who violates a provision of this chapter, except Section 8.20.160, may be required to forfeit not less than ten dollars (\$10.00), plus costs, nor more than one thousand dollars (\$1,000.00), plus costs, for each violation. (Ord. dated 4/28/94: prior code § 11.08(20))

## Chapter 8.24

### NUISANCES

#### Sections:

- 8.24.010 Storage of junk regulated.**
- 8.24.020 Littering prohibited.**
- 8.24.030 Open cisterns, wells, basements or other dangerous excavations prohibited.**
- 8.24.040 Abandoned or unattended containers prohibited.**
- 8.24.050 Public nuisances prohibited.**
- 8.24.060 Public nuisance defined.**
- 8.24.070 Public nuisances affecting health.**
- 8.24.080 Public nuisances offending morals and decency.**
- 8.24.090 Public nuisances affecting peace and safety.**
- 8.24.100 Abatement of public nuisances.**
- 8.24.110 Cost of abatement.**
- 8.24.120 Violation--Penalty.**

#### **8.24.010 Storage of junk regulated.**

A. Restricted. No person shall store junked or discarded property, including automobiles, automobile parts, trucks, tractors, refrigerators, furnaces, washing machines, stoves, machinery or machinery parts, wood, bricks, cement blocks or other unsightly debris which substantially depreciates property values in the neighborhood, except in an enclosure which screens such property from public view or upon permit issued by the town board.

B. Order for Compliance. The town police department may require by written order

any premises in violation of this section to be put in compliance within the time specified in such order and, if the order is not complied with, may have the premises put in compliance and the cost thereof assessed as a special tax against the property. (Ord. dated 6/11/98: prior code § 9.11)

#### **8.24.020 Littering prohibited.**

No person shall throw any glass, refuse, waste, filth or other litter upon the streets, alleys, highways, public parks or other property of the town, or upon any private property or the surface of any body of water within the town. (Prior code § 9.12)

#### **8.24.030 Open cisterns, wells, basements or other dangerous excavations prohibited.**

No person shall have or permit on any premises owned or occupied by him any open cisterns, cesspools, wells, unused basements, excavations or other dangerous openings. All such places shall be filled, securely covered or fenced in such manner as to prevent injury to any person and any cover shall be of a design, size and weight that the same cannot be removed by small children. Any violation of this section is a public nuisance and may be disposed of in accordance with Chapter 823, Wis. Stats. (Prior code § 9.13)

#### **8.24.040 Abandoned or unattended containers prohibited.**

No person shall leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure, under his control in a place accessible to children, any abandoned, unattended or discarded ice box, refrigerator or other con-

tainer which has an airtight door or lid, snap lock or other locking device which may not be released from the inside without first removing such door or lid, snap lock or other locking device from such ice box, refrigerator or container unless such container is displayed for sale on the premises of the owner or his agent and is securely locked or fastened. (Prior code § 9.14)

**8.24.050 Public nuisances prohibited.**

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the town. (Prior code § 10.01)

**8.24.060 Public nuisance defined.**

A “public nuisance” is a thing, act, occupation, condition or use of property which continues for such length of time as to:

A. Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;

B. In any way render the public insecure in life or in the use of property;

C. Greatly offend the public morals or decency;

D. Unlawfully and substantially interfere with, obstruct or tend to obstruct, or render dangerous for passage, any street, alley, highway, navigable body of water or other public way or the use of public property. (Prior code § 10.02)

**8.24.070 Public nuisances affecting health.**

The following acts, omissions, places, conditions and things are specifically declared to be public health nuisances; but such enumeration shall not be construed to exclude other health nuisances coming within the definition of Section 8.24.060:

A. Adulterated food: all decayed, adulterated or unwholesome food or drink sold or offered for sale to the public;

B. Carcasses, unburied: 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 twenty-four (24) hours after death;

C. Insects or vermin, breeding places for: accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material in which flies, mosquitoes, disease-carrying insects, rats or other vermin can breed;

D. Water, stagnant: all stagnant water in which mosquitoes, flies or other insects can multiply;

E. Privy vaults and garbage cans: privy vaults and garbage cans which are not flytight;

F. Weeds, noxious: Canada thistle, leafy spurge, field bindweed (creeping Jenny), unsightly and troublesome plants which are detrimental to cultivated crops, public health, public welfare and to the general appearance of the surrounding area or such uncultivated rank plants which create unpleasant or noxious odors or grow to such height as to permit the concealment of filthy deposits;

G. Pollution, water: the pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances;

H. Odors, noxious: any use of property, substances or things within the town emitting or causing any foul, offensive, noxious or disagreeable odors, gases, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy,

discomfort, injure or inconvenience the health of any appreciable number of persons within the town;

I. Pollution, street: any use of property which causes any noxious or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the town;

J. Pollution, air: the escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the town or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or threaten or cause substantial damage to property in the town;

K. Animals, loose: any animals running at large in the town. (Prior code § 10.03)

**8.24.080 Public nuisances offending morals and decency.**

The following acts, omissions, places, conditions and things are specifically declared to be public nuisances offending public morals and decency; but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of Section 8.24.060:

A. Disorderly houses: all disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling;

B. Gambling devices: all gambling devices and slot machines;

C. Unlicensed sale of liquor and beer: all places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or

rectified without a permit or license as provided for by the ordinances of the town;

D. Illegal drinking: any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of state laws. (Prior code § 10.04)

**8.24.090 Public nuisances affecting peace and safety.**

The following acts, omissions, places, conditions and things are declared to be public nuisances affecting peace and safety; but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the definition of Section 8.24.060:

A. Dangerous signs, billboards, etc: all signs, billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety;

B. Illegal buildings: all buildings erected, repaired or altered in violation of town ordinances relating to materials and manner of construction of buildings and structures within the town.

C. Unauthorized traffic signs: all unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be, or may be, mistaken as official traffic control devices, railroad signs or signals or which, because of their color, location, brilliance or manner of operation, interfere with the effectiveness of any such device, sign or signal;

D. Obstruction of intersections: all trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from ob-



taining a clear view of traffic when approaching an intersection or pedestrian crosswalk;

E. Low hanging tree limbs: all limbs of trees which project over and less than ten (10) feet above any public sidewalk, street or other public place;

F. Dangerous trees: all trees which are a menace to public safety or are the cause of substantial annoyance to the general public;

G. Fireworks. All use or display of fireworks except as provided by state laws and town ordinances.

H. Dilapidated buildings: all buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human use;

I. Low hanging wires and cables: all wires and cables over streets, alleys or public grounds which are strung less than fifteen (15) feet above the surface thereof;

J. Noisy animals or fowl: the keeping or harboring of any animal or fowl which, by frequent or habitual howling, yelping, barking, crowing or making of other noises, greatly annoys or disturbs a neighborhood or any considerable number of persons within the town;

K. Obstructions of streets--Excavations: all obstructions of streets, alleys, sidewalks or crosswalks, and all excavations in or under the same, except as permitted by this code, but including those which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished or which do not conform to the permit;

L. Unlawful assemblies: any unauthorized or prohibited use of property abutting on a public street, alley or sidewalk, or of a public street, alley or sidewalk which causes

large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks;

M. Blighted buildings and premises:

1. Premises existing within the town which are blighted because of faulty design or construction, failure to maintain them in a proper state of repair, improper management or due to the accumulation thereon of junk or other unsightly debris, structurally unsound fences and other items which depreciate property values and jeopardize or are detrimental to the health, safety, morals or welfare of the people of the town,

2. Blighted premises contribute to conditions that are dangerous to the public health, safety, morals and general welfare of the people; the conditions necessitate excessive and disproportionate expenditure of public funds for public health and safety, crime prevention, fire protection and other public services; such conditions cause a drain upon public revenue and impair the efficient and economical exercise of governmental functions in such areas,

3. Elimination of blighted premises and prevention of blighted premises in the future is in the best interest of the citizens and shall be fostered and encouraged by this section. It is essential to the public interest that this section be liberally construed to accomplish such purposes. (Prior code § 10.05)

#### **8.24.100 Abatement of public nuisances.**

A. Enforcement. The police chief, fire chief, building inspector and health officer shall enforce those provisions of this chapter that come within the jurisdiction of their offices; and shall make periodic inspections and inspections upon complaint to insure that such provisions are not violated. No

action shall be taken under this section to abate a public nuisance unless the officer has inspected or caused to be inspected the premises where the nuisance is alleged to exist and has satisfied himself that a nuisance does in fact exist.

B. Summary Abatement. If the inspecting officer determines that a public nuisance exists within the town and that there is great and immediate danger to the public health, safety, peace, morals or decency, the chairman may direct the proper officer to cause the same to be abated and charge the cost to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

C. Abatement After Notice. If the inspecting officer determines that a public nuisance exists on private premises but that such nuisance does not threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall serve notice on the person causing or maintaining the nuisance to remove the same within ten (10) days. If such nuisance is not removed within ten (10) days, the officer shall cause the nuisance to be removed as provided in subsection B of this section.

D. Other Methods Not Excluded. Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the town or its officials in accordance with the laws of the state.

E. Court Order. Except when necessary under subsection B of this section, an officer hereunder shall not use force to obtain access to private property to abate a public nuisance, but shall request permission to enter upon private property if such premises are occupied and, if such permission is denied, shall apply to any court having juris-

isdiction for an order assisting the abatement of the public nuisance. (Prior code § 10.10)

**8.24.110 Cost of abatement.**

In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the town shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance; and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge. (Prior code § 10.11)

**8.24.120 Violation--Penalty.**

Any person who shall violate any provision of this chapter, or any regulation, rule or order made hereunder, or permit or cause a public nuisance, shall be subject to a penalty as provided in Chapter 1.20 of this code. (Prior code § 10.15)

## Chapter 8.28

### WEEDS

#### Sections:

**8.28.010 Definitions.**

**8.28.020 Destruction of weeds required in recorded subdivisions.**

**8.28.030 Notice to destroy weeds throughout town.**

**8.28.040 Weed commissioner--  
Destruction of weeds.**

**8.28.050 Levy of tax lien.**

**8.28.060 Compensation.**

**8.28.010 Definitions.**

For the purposes of this chapter:

“Destroy” means the complete killing of weeds or weed plants above the surface of the ground by the use of chemicals, cutting, tillage, cropping system, pasturing livestock or any or all of these in effective combination.

“Noxious weeds” means Canada thistle, leafy spurge, field bindweed and unsightly and troublesome plants which are detrimental to cultivated crops, public health, public welfare and to general appearance of the surrounding area, or such uncultivated rank plants which create unpleasant or noxious odors or grow to such height as to permit the concealment of filthy deposits. (Prior code § 10.07(1))

**8.28.020 Destruction of weeds required in recorded subdivisions.**

Any person owning, occupying or controlling any lands in recorded subdivisions

in the town shall, without further notice, destroy noxious weeds growing on such lands at least once during each of the following periods of time: between June 7th and 15th of each year; and, between July 24th and August 1st of each year. (Prior code § 10.07(2))

**8.28.030 Notice to destroy weeds throughout town.**

On or before May 15th of each year the town chairman shall post, in at least three conspicuous places in the town and publish at least once a week for two consecutive weeks in the Burlington Standard Press, a notice that every person is required by law to destroy all noxious weeds, as defined in Section 8.28.010 on lands in the town regardless of location, which he owns, occupies or controls. (Prior code § 10.07(3))

**8.28.040 Weed commissioner--  
Destruction of weeds.**

If any person neglects to destroy weeds after the publication of the notice described in Section 8.28.030, the weed commissioner appointed under Section 66.97, Wis. Stats., shall:

A. Give five days’ written notice by mail to the owner or occupant of the affected land;

B. Destroy such weeds in accordance with the procedures specified in Section 66.96, Wis. Stats.;

C. Take such actions as are required to enable the town clerk to tax the affected land for the destruction of weeds. (Prior code § 10.07(4))

**8.28.050 Levy of tax lien.**

The town clerk shall levy tax liens for the destruction of weeds in accordance with the

provisions of Section 66.98 Wis Stats. In lieu of the remedy provided herein, the town may elect to impose the penalties as provided in Chapter 1.20 of this code. (Ord. dated 3/11/91: prior code § 10.07(5))

**8.28.060 Compensation.**

The weed commissioner or commissioners shall receive such compensation as may be determined by the town board. (Prior code § 10.07(6))

## **Chapter 8.32**

### **NON-AUCTION SALE OF ABANDONED PROPERTY**

#### **A. Purpose.**

This ordinance is created under and by virtue of sec. 66.0139, Wis. Stats.

#### **B. Non-auction sale.**

In lieu of public auction of abandoned property, as defined in sec. 66.0139(2), Wis. Stats., the town may dispose of such property by private sale, by sale to dealers specializing in buying and selling property of the nature of the abandoned property, by rummage sale, by donation or disposal of the property if it is deemed to have no or nominal monetary value, or by any other reasonable means the town may, from time to time, determine.

#### **C. Compliance with state statutes.**

In all other respects, the town shall comply with the procedures of sec. 66.0137, Wis. Stats., in the disposal of abandoned property. (Ord. dated 5/12/05)

## Chapter 8.36

### LAWN FERTILIZER APPLICATION CONTROL

#### Sections:

- 8.36.010 Purpose.**
- 8.36.020 Definitions.**
- 8.36.030 Application Control.**
- 8.36.040 Exemptions.**
- 8.36.050 Enforcement and Penalties.**

#### **8.36.010 Purpose.**

The purpose of this ordinance is to define regulations which will aid the Town in managing and protecting its water resources which are enjoyed by its residents and other users, by controlling the application of lawn fertilizer in the Town of Burlington. This ordinance is designed to protect the health, safety, and welfare of the residents of the Town.

#### **8.36.020 Definitions.**

For the purpose of this ordinance, certain terms and words are defined as follows:

A. “Commercial Applicator” is a person who is engaged in the business of applying fertilizer for hire.

B. “Fertilizer” means a substance containing one or more recognized plant nutri-

ents that is used for its plant nutrient content and designed for use or claimed to have value in promoting plant growth. Fertilizer does not include animal and vegetable manures that are not manipulated, marl, lime, limestone, and other products, which may be exempted by State Law.

C. “Noncommercial Applicator” is a person who applies fertilizer but who is not a commercial lawn fertilizer applicator.

#### **8.36.030 Application Control.**

A. Fertilizer Containing Phosphorous Prohibited. No person, firm, corporation, franchise, or commercial or noncommercial applicator, including homeowners or renters, shall apply any lawn fertilizer, liquid or granular, which contains any amount of phosphorous or other compound containing phosphorous, such as phosphate, within the Town of Burlington, except:

(i) The naturally occurring phosphorous in unadulterated natural or organic fertilizing products such as yard waste compost.

(ii) As otherwise provided in paragraph 8.36.040 B of this Section

B. Impervious Surfaces and Drainage Ways. No person shall apply any fertilizer to impervious surfaces, areas within drainage ditches, or waterways.

C. Buffer Zone. Fertilizer shall not be applied:

(i) To any established natural buffer zones or delineated wetland.

(ii) Below the Ordinary High Water Mark as established by the Department of Natural Resources or other state regulation.

(iii) Within ten (10) feet of any wetland or water resource.

**8.36.040 Exemptions.**

The following are exemptions to the specified provisions of this ordinance:

A. The prohibition against use of fertilizer containing any quantity of phosphorous under Paragraph 8.36.030 A. shall not apply to turf and lawn areas which soil tests confirm are below established phosphorous levels for typical area soils. The lawn fertilizer application shall not contain an amount of phosphorous exceeding the amount of phosphorous and the appropriate application rate recommended in the soil test evaluation. Phosphorous applied as lawn fertilizer pursuant to the aforementioned exemption shall be integrated into the soil where it is immobilized and generally protected from loss by runoff.

B. This ordinance in its entirety shall not apply to any farming or agricultural business, provided the use of fertilizers as defined herein is related to the growth of a product or maintenance of growing fields. Appropriate steps shall be taken to integrate the fertilizer into the soil where it is immobilized and generally protected from loss by runoff. This exemption shall not apply to lawn areas of said farm or agricultural business.

**836.050 Enforcement and Penalties.**

A. The Police Department, Building Inspector, Health Officer, or Highway Superintendent may enforce the provisions of this Chapter and may make inspections upon complaint to ensure the provisions of this Chapter are not violated.

B. In addition to any other penalty imposed by this Chapter for violation of its provisions, the Town may order abatement of any prohibited fertilizer application as set forth herein. The Town shall be entitled to reimbursement of all costs associated with any abatement action, including injunctive relief.

C. Any person who shall violate any provision of this Chapter shall be subject to the penalties set forth in Chapter 1.20 of the Code of General Ordinances.

## Chapter 8.40

### RACINE COUNTY FIRE CODES

#### Sections:

#### 8.40.00 Purpose and Scope

#### 8.40.01 Administration and Enforcement

#### 8.40.02 Definitions

#### 8.40.03 Standards Adopted by Reference

#### 8.40.04 General Fire Safety Requirements

#### 8.40.05 Fire Prevention, Detection and Protection

#### 8.40.06 Table of Flammable and Hazardous

#### Materials

#### 8.40.00 Purpose and Scope:

(1) *Purpose:* The purpose of this chapter is to prescribe regulations consistent with the recognized good practice for the safeguarding of life, health, safety and welfare of the public as well as establishing minimum standards for the prevention of fire and explosion from hazardous conditions that potentially exist in buildings or on premises and to the occupants thereof.

(2) *Scope:* The provisions of this chapter shall apply to all public buildings and places of employment to include all buildings or structures located on such properties with the following exceptions:

(a) *Exempt Buildings:* The following buildings and uses are not public buildings or places of employment and are not subject to the provisions of this chapter:

3. One – and 2-family dwellings.

4. Buildings used exclusively for farming.

5. Buildings used primarily to house livestock.

6. Temporary buildings used for construction purposes only, not to exceed 2 stories in height and not used as living quarters.

7. Buildings owned by the Federal Government.

#### 8.40.01 Administration and Enforcement:

(1) *Authorized Deputy or Agent:* It is recognized that the Fire Chief of the fire department and the Fire Inspector are duly authorized as a deputy of the State of Wisconsin. The Fire Chief of the fire department and the Fire Inspector are duly authorized agents of the Town of Burlington for the enforcement of all the provisions of this chapter and all other standards adopted by reference herein.

(2) *Fire Prevention Inspections:* The Fire Chief, the Fire Inspector and any other officer appointed by the Fire Chief, shall be responsible for having all public buildings and places of employment to include any building or structure

located on such property, to be inspected for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, or any violations of any law or ordinance relating to fire hazards or to the prevention of fires. The

Fire Inspector shall also investigate the storage and handling of explosives and flammable liquids for compliance to this code.

(3) *Frequency of Inspections:* The Fire Chief shall inspect or cause to be inspected by the Fire Inspector, or any other officer appointed by the Fire Chief, all buildings and premises



described in this chapter on a semi-annual basis as provided by section 101.14(2) of the Wisconsin State Statutes, or as often as prescribed by the Department of Commerce.

(4) *Inspection Warrants:* The Fire Chief or Fire Inspector may obtain an administrative warrant or search warrant as granted under section 66.0119 of the Wisconsin State Statutes when necessary in his opinion for the purpose of making an inspection or investigation of any building or premises where the owner has either failed to respond to previous orders for entry or has refused entry.

(5) *Written Orders:* Whenever any inspector shall find in any building or on any premises, any condition liable to cause fire, or any violations of any law or ordinance relating to fire hazards or to the prevention of fires, or any condition which interferes with the life, health or safety of any individual or occupant, he shall order the same to be removed or remedied.

(6) *Service of Orders:* The service of orders under this chapter may be made upon either the occupant of the premises to whom it is directed, the owner of the premises or both. Any such order may be hand written on an approved inspection form or typed and delivered to such occupant personally or by placing such order in a conspicuous place on the door to the entrance of the premises. Whenever it may be necessary to serve an order upon the owner of the premises, such an order may be served by either hand delivering to, and leaving a copy with such a person, or if such owner is absent from the jurisdiction of

the inspector making the order, by mailing a copy to the owner's last known address.

(7) *Compliance to Orders:* Any such order given, shall forthwith be complied to by the owner and occupant of such building, structure or premises. The owner or occupant may, within 24 hours of the receipt of such order, appeal to the Fire Chief in writing for a review of such order, who shall thereafter as soon as possible, file his decision. Unless such order is revoked or modified by the Fire Chief, it shall remain in full force and shall be complied with in the time fixed in said order.

(8) *Penalties:* Failure to comply with any orders issued pursuant to the provisions of this chapter by the Chief of the Fire Department, the Fire Inspector, or any duly authorized representative, shall constitute an Ordinance violation, and any person, firm or corporation found guilty of such violation shall, upon the conviction thereof, be fined a sum not less than One Hundred (\$100) Dollars nor more than One Thousand (\$1,000) Dollars, together with the costs of the prosecution and any other court fees, and in default of payment thereof shall be imprisoned until such forfeiture and costs are paid, but not to exceed fifteen (15) days. Each and every twenty-four (24) hours such violation shall continue shall constitute a separate offense.

Any person, firm or corporation found guilty of a violation of any section of this Chapter for which a specific penalty is not herein provided shall, upon conviction thereof, be fined the sum of not less than One Hundred (\$100) Dollars nor more than One Thousand (\$1,000) Dollars, together with the costs of

the prosecution and any other court fees, and in default of payment thereof shall be imprisoned until such forfeiture and costs are paid, but not to exceed fifteen (15) days. Each and every twenty-four (24) hours such violation shall continue shall constitute a separate offense.

(9) *“Validity”*. Should any section, subsection, paragraph, sentence, clause, phrase or word of this Chapter be declared for any reason to be invalid or unconstitutional, the remainder of this Chapter shall not be affected thereby and shall continue in full force and effect.

(10) *“Citation Authority”*. The Town of Burlington hereby elects to use the citation method of enforcement of ordinances. Any law enforcement officer and any other Fire Department personnel charged with the responsibility of enforcing the provisions of this Municipal Code are hereby authorized to issue citations for violations of this Code of ordinances, including ordinances for which a statutory counterpart exists. Whenever it may be necessary to serve a citation upon either an owner, occupant or both, the citation shall be hand written on an approved form and delivered to such occupant or owner by either hand delivering to, or leaving a copy with such a person, or if such owner is absent from the jurisdiction of the inspector making the citation, by mailing a copy to the owner’s last known address.

**8.40.02 Definitions:**

Unless otherwise expressly stated, the following terms shall, for the purpose of this

code, have the meaning indicated in this section:

(1) *“Alarms”*. Any person, firm or corporation having a sprinkler, fire, smoke or heat detector system may be charged a fee for false alarms responded to by the fire department. Types or alarms transmitted to the fire department include:

(a) Good intent false alarms – An alarm that turns out to be false but which was reported in good faith.

(b) Accidental false alarm – An alarm set off and transmitted through accidental operation of an automatic or manual fire alarm device; frequent causes are low air pressure on automatic dry sprinkler systems, excessive heat from industrial processes or the sun, cold weather, and smoke detector sensitivity adjustment.

(c) False alarm – An alarm for which no fire actually exists. Examples include: burnt food, system activation from steam by a shower, and improper maintenance of system components.

(d) Malicious false alarms – An alarm by any person, firm or corporation who shall negligently or willfully cause an alarm of fire to be transmitted, as opposed to an accidental false alarm. Malicious false alarms may be the result of removal of component parts from the alarm system, or the intentionally setting off of a system or calling in a false alarm.

**Note:** There shall be no fine for (2) false alarms within a calendar year at the same

location. A forfeiture of \$25.00 shall be charged for the 3rd false alarm, and \$50.00 for each false alarm thereafter.

**Note:** No Town of Burlington employee shall reset any alarm system. It shall be the owner's responsibility and liability to return the alarm system back to normal operation.

**Note:** Upon the activation of any false alarm, whether by accident or on purpose, and no response is made by the Fire Department, immediate notification shall be given to the Fire Inspector in order to perform an onsite inspection of the system to determine the cause.

(2) *"Approval"*. Approval by the Chief of the Fire Department, the Fire Inspector or their designee in accordance with the provisions of this code as applied to a material, device, mode of construction or services.

(3) *"Approved Agency"*. An agency accepted or acceptable to the requirements of this code.

(4) *"Area of Square Footage of Building"*. Refers to the total square footage of the sum of all basements, floor levels, balconies and mezzanines.

(a) The area for basements and floor levels shall be measured from the outside perimeter of the outside walls.

(b) The area for mezzanines shall be determined from the product of the length times the width.

(c) For the purpose of determining square footage, fire division walls will not be accepted as outside walls or area dividers.

(d) Buildings that are in close proximity to each other will have their building square footage added together to arrive at the total square footage. For the purpose of determining proximity, the following will hold true, excluding airport hangers:

a. Single story buildings – 20 feet apart or less.

b. Two story buildings – 60 feet apart or less.

c. Three story buildings – 60 feet apart or less.

d. All other multiple story buildings – 60 feet apart.

e. Buildings of variable height next to each other – 30 feet apart or less.

(5) *"Assembly Hall"*. Assembly Halls and their capacity requirements shall be defined as follows:

(a) "Assembly halls" or "places of assembly" mean all buildings or parts of buildings, other than theaters, which will accommodate more than 100 persons for entertainment, recreation, worship or dining.

(b) The following table includes various types of occupancies within the scope of this definition, together with the method for determining the capacity for each.

Use of Occupancy Basis for Capacity:

1. Arenas and Field Houses.....  
4 sq. ft. per person
2. Assembly Halls with Stage.....  
7 sq. ft. per person
3. Banquet Halls.....  
10 sq. ft. per person
4. Churches (Auditoriums).....  
7 sq. ft. per person
5. Churches (Dining Rooms).....  
10 sq. ft. per person
6. Dance Halls.....  
10 sq. ft. per person
7. Dining Rooms.....  
10 sq. ft. per person
8. Gymnasiums.....  
6 sq. ft. per person for seated  
space.  
15 sq. ft. per person for unseated.
9. Lecture Halls.....  
7 sq. ft. per person
10. Lodge Halls.....  
6 sq. ft. per person for seated  
space.  
15 sq. ft. per person for unseated.
11. Skating Rinks.....  
45 sq. ft. per person
12. Taverns.....  
10 sq. ft. per person

13. Theaters.....  
7 sq. ft. per person

(6) *“Assembly Occupancy”*. The occupancy or use of a building or structure or any portion thereof by a gathering of 100 persons or more.

(7) *“Automatic Fire Detector”*. A device designed to detect specific products of fire – smoke, heat or both.

(8) *“Authority Having Jurisdiction”*. Shall be the Fire Chief, Fire Inspector or the designee of the Fire Chief to enforce the Municipal Fire Prevention Code, the laws of the State of Wisconsin as pertaining to the prevention of fires and public safety, and approving equipment, installation, certification or procedure as outlined in the NFPA standards.

(9) *“Automatic Closing Device”*. A device which functions without human intervention and is actuated as a result of predetermined temperature rise, rate of rise of temperature, combustion products or smoke density.

(10) *“Automatic Fire Alarm System”*. A system which automatically detects a fire condition and actuates a fire alarm signal device.

(11) *“Business Occupancy”*. The occupancy or use of a building or structure, or any portion thereof, for the transaction of business or the rendering or receiving of professional services, including offices.

(12) *“Ceiling”*. The upper surface of a space, regardless of height. Areas with a suspended ceiling have two ceilings, one visible from

the floor, and one above the suspended ceiling.

(13) "*Chief of the Fire Department*". The head of the Fire Department or a duly authorized Deputy.

(14) "*Combustible Material*". All materials not classified as "noncombustible" are considered combustible.

(15) "*COMM*". The Wisconsin Department of Commerce.

(16) "*Common Area*". With reference to multi-family occupancies, this refers to any area in the building that can be accessed by more than one person from different families at a time.

(17) "*Day Care Center*". Any place which receives at any one time for compensation, 4 or more children under the age of 7 years, for care and supervision, for less than 24 hours a day and for more than 10 days per month, without the attendance of a parent, relative or legal guardian.

(18) "*Dwelling*". Any building or portion thereof designed or used as the living and/or sleeping place or one or more persons, and including:

(a) "*Single Family Dwelling*". A detached building designed for one family and containing only one dwelling unit.

(b) "*Two Family Dwelling*". A detached building containing not more than two individual dwelling units which are entirely separated by vertical walls or horizontal floors, un-

pierced, except for access to the outside or a common basement.

(19) "*Dwelling Structures*". Any structure containing one or more rooms providing sleeping and sanitary facilities, but not including a hotel, hospital, nursing home, dormitory, fraternity or sorority house.

(20) "*Dwelling Unit*". One or more rooms which may include a kitchen or kitchenette, sleeping areas, dining areas, and sanitary facilities, designed as a unit for occupancy by not more than one family.

(21) "*Educational Occupancy*". The occupancy or use of a building of a building or structure or any portion thereof by persons assembled for the purpose of learning or of receiving educational instruction.

(22) "*Family Unit*". Two or more individuals who are related to each other by blood, marriage, adoption or legal guardianship. For purposes of this code a group of not more than 4 persons not necessarily related by blood or marriage living together in a single living unit will be considered equivalent to a single family.

(23) "*Fire Escape*". One or more flights of steps, and the necessary platforms or landings connecting them, to form a continuous passage from one elevation of a building to another, to include exterior porches, platforms, steps and stairways.

(24) "*Fire Inspector*". A duly authorized deputy appointed by the Fire Chief to enforce this code who shall be bonded and insured by the city.

(25) *"Fire Sprinkler Equipment, Automatic"*. A system of piping connected to an adequate water supply and provided with approved automatic fire sprinklers or devices so arranged and located as to discharge water automatically to the seat of the fire. Installation of such a system shall comply with this code and all subsequent codes adopted by reference herein.

(26) *"Fire Wall"*. A wall which has a fire resistive rating of not less than 4 hours and which divides a building or separates buildings to restrict the spread of fire. A 3 foot high parapet wall may be a required part of a fire wall.

(27) *"Floor, Basement"*. That level where less than half the height between floor and ceiling is above the average level of the street, sidewalk or finished grade.

(28) *"Floor, Ground"*. That level of a building on a sloping or multilevel site which has its floor line at or not more than 3 feet above exit discharge grade for at least 1/2 of the required exit discharges.

(29) *"High Hazard Occupancy"*. Any building which by reason of its construction or highly combustible occupancy, or involves a severe life hazard to its occupants as classified by the Department of Commerce, or any building whereby the Fire Inspector deems it as a high hazard.

(30) *"Housing for the Elderly/Community Based Residential Facilities (CBRF)"*. Any place where three or more unrelated adults reside in which care, treatment or services above the level of room and board but not including nursing care are provided to per-

sons residing in the facility as a primary function of the facility.

(31) *"Industrial Occupancy"*. The occupancy or use of a building or structure, or any portion thereof for assembling, fabricating, finishing, manufacturing, packaging or processing operations.

(32) *"Institutional Occupancy"*. The occupancy or use of a building or structure, or any portion thereof by persons harbored or detained to receive medical, charitable or other care or treatment or by persons involuntarily detained.

(33) *"Mercantile Occupancy"*. The occupancy or use of a building or structure, or any portion thereof for the displaying, selling or buying of goods, wares or merchandise.

(34) *"Mezzanine or Mezzanine Floor"*. Any intermediate floor level, whether accessed by a stair or not, opened or enclosed.

(35) *"Multi-Family Dwelling"*. Any apartment house or a building designed for occupancy by three or more families living independently of each other and containing three or more dwelling units, including, but not limited to, row houses, garden apartments and rooming houses.

(36) *"NFPA"*. National Fire Protection Association.

(37) *"Owner"*. Includes his duly authorized agent or attorney, a purchaser, devisee, fiduciary or person having a vested or contingent interest in the property in question.

(38)“*Public Buildings*”. Means and includes any building or structure, including exterior parts of such building, such as a porch, exterior platform or steps providing means of ingress or egress, used in whole or part as a place of resort, assemblage, lodging, trade, traffic, occupancy, or use by the public or by 3 or more tenants.

(39)“*Records*”. Means any form of written material that shows information pertaining to a device, system, method or person. Written records are required whenever tests and/or maintenance of any kind is performed on a system or device.

(40)“*Remodel*”. To remodel or alter, or both, means to change any building or structure which effects the structural strength, fire hazard, internal circulation, or exits of the existing building or structure. This definition does not apply to maintenance, re-roofing, or alterations to the heating and ventilating or the electrical systems.

(41)“*Roof Spaces*”. That level of any building or structure directly below the exterior roof and above the ceiling level of the top most portion of occupied space.

(a) Multi-Family, Commercial, Industrial, Governmental and Industrial buildings with combustible roofs shall have all roof spaces subdivided every 3000 square feet by a one-hour rated partition unless protected in the space by an automatic approved sprinkler system. All divided spaces shall have an approved and minimum one-hour rated access panel.

(42)“*Row House*”. A place of abode arranged to accommodate 3 or more attached, side by side or back to back living units.

(43)“*Storage Occupancy*”. The occupancy or use of a building or structure, or any portion thereof, for the storage of goods, wares, merchandise, raw materials, agricultural or manufactured products, including parking garages, or the commercial sheltering of livestock and other animals.

(44)“*Story*”. The spacing in a building between the surfaces of any floor and the floor next above or below, or roof next above, or any space not defined as a basement, ground floor, mezzanine, balcony, penthouse or attic.

(45)“*Theater*”. Any buildings or part thereof containing an assembly hall having a stage which may be equipped with curtains or movable scenery, or which is otherwise adaptable to the showing of plays, operas, motion pictures or similar forms of entertainment.

(46)“*Vehicle*”. Is any self-propelled device fueled by flammable or combustible liquid, compressed gas, used to transport people or goods.

#### **8.40.03 Standards Adopted by Reference:**

(1) *Wisconsin Department of Commerce*: The Town of Burlington hereby adopts the following sections of the Department of Commerce, formerly known as the Department of Industry, Labor and Human Relations or DILHR. These regulations are adopted by reference and incorporated into the Town of Burlington

Fire Prevention Code with the same force and effect as if fully set forth herein.

COMM 7 Explosive Materials  
COMM 8 Mines, Pits and Quarries  
COMM 9 Manufacture of Fireworks  
COMM 10 Flammable and Combustible Liquids  
COMM 11 Liquefied Petroleum Gases 10  
COMM 12 Liquefied Natural Gas  
COMM 13 Compressed Natural Gas  
COMM 14 General Hazard and Fire Prevention  
COMM 15 Cleaning and Dyeing  
COMM 16 Electrical, Volume 2  
COMM 18 Elevator Code  
COMM 28 Smoke Detectors for UDC  
COMM 35 Infectious Agents  
COMM 41-42 Boiler and Pressure Code  
COMM 43 Anhydrous Ammonia  
COMM 50-64 Building and Heating, Ventilation and Air Conditioning  
COMM 66 Uniform Multi-Family Dwellings  
COMM 69 Barrier-Free Design  
COMM 70 Historic Buildings  
COMM 75-79 Existing Buildings Code

(2) *National Fire Protection Association*: The Town of Burlington hereby adopts the following sections of the National Fire Prevention Association or NFPA. These regulations are hereby adopted by reference and incorporated into the Town of Burlington Fire Prevention Code with the same force and effect as if fully set forth herein.

NFPA 1 Fire Prevention Code  
NFPA 10 Portable Fire Extinguishers  
NFPA 11 Low Expansion Foam Extinguishing Systems

NFPA 11A Medium and High Expansion Foam Systems  
NFPA 12 Carbon Dioxide Extinguishing Systems  
NFPA 12A Halon 1301 Fire Extinguishing Systems  
NFPA 13 Installation of Sprinkler Systems  
NFPA 13D Installation of Sprinkler Systems in One- and Two- Family Dwellings and Manufactured Homes  
NFPA 13R Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories  
NFPA 14 Installation of Standpipe and hose Systems  
NFPA 15 Water Spray Fixed Systems for Fire Protection  
NFPA 16 Installation of Deluge Foam-Water Sprinkler Systems  
NFPA 16A Installation of Closed-Head Foam-Water Sprinkler Systems  
NFPA 17 Dry Chemical Extinguishing Systems  
NFPA 17A Wet Chemical Extinguishing Systems  
NFPA 20 Installation of Stationary Pumps for Fire Protection  
NFPA 22 Water Tanks for Private Fire Protection  
NFPA 24 Installation of Private Fire Service Mains and Their Appurtenances  
NFPA 25 Inspection, Testing and Maintenance of Water-Based Fire Protection Systems 11  
NFPA 30 Flammable and Combustible Liquids Code  
NFPA 30A Automotive and Marine Service Station Code  
NFPA 30B Manufacture and Storage of Aerosol Products



NFPA 31 Installation of Oil-Burning Equipment  
 NFPA 33 Spray Application Using Flammable or Combustible Liquids  
 NFPA 34 Dipping and Coating Processes for Flammable or Combustible Liquids  
 NFPA 37 Installation and Use of Stationary Combustion Engines And Gas Turbines  
 NFPA 43A Storage of Liquid and Solid Oxidizers  
 NFPA 43C Storage of Gaseous Oxidizers  
 NFPA 43D Storage of Pesticides  
 NFPA 51 Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting,  
 NFPA 51B Fire Prevention in Use of Cutting and Welding Processes  
 NFPA 54 National Fuel Gas Code  
 NFPA 55 Storage, Use, and Handling of Compressed and Liquefied Gases in Portable Cylinders  
 NFPA 58 Liquefied Petroleum Gas Code  
 NFPA 69 Explosion Prevention Systems  
 NFPA 72 National Fire Alarm Code  
 NFPA 80 Fire Doors and Fire Windows  
 NFPA 88A Parking Structures  
 NFPA 88B Repair Garages  
 NFPA 92A Smoke Control Systems to Four Stories in Height  
 NFPA 96 Ventilation Control and Fire Protection of Commercial Cooking Operations  
 NFPA 101 National Life Safety Code  
 NFPA 101B Code for Means of Egress for Buildings and Structures  
 NFPA 204 Smoke and Heat Venting  
 NFPA 221 Fire Walls and Fire Barrier Walls  
 NFPA 230 Fire Protection of Storage  
 NFPA 231D Storage of Rubber Tires  
 NFPA 409 Aircraft Hangers  
 NFPA 410 Aircraft Maintenance  
 NFPA 434 Storage of Pesticides  
 NFPA 490 Storage of Ammonium Nitrate

NFPA 704 Identification of Hazardous Materials for Emergency Response  
 NFPA 1123 Fireworks Display  
 NFPA 1124 Manufacture, Transportation, and Storage of Fireworks And Pyrotechnic Articles  
 NFPA 1126 Use of Pyrotechnics Before a Proximate Audience 12

(3) The most current version of each section, as well as any future updates to any of the codes adopted by this section are also adopted prospectively by reference.

(4) Any violation of these provisions constitutes a violation of this code.

(5) Copies of the National Fire Prevention Association Codes are available from:

National Fire Protection Association  
 11 Tracy Drive  
 Avon, MA 02322-9908  
 1-800-344-3555

(6) Copies of the Wisconsin Department of Commerce Codes are available from:

Wisconsin Department of Administration  
 Document Sales and Distribution Section  
 202 S. Thornton Avenue  
 P.O. Box 7840  
 Madison, WI 5370778440  
 1-608-266-3358

**8.40.04 General Fire Safety Requirements:**

(1) *Rapid Entry Key Boxes:* The Town of Burlington elects to use rapid entry lock

box devices and material lock boxes such as those provided by The Knox Box Company currently in use by this department.

(a) *Where Required:* Rapid entry key boxes shall be required on all multifamily dwellings of four families or more that have a common entrance or share a common area accessible by all occupants. Key boxes shall be required on all assisted senior housing and community based residential facilities, industrial and commercial facilities as designated by this department and any location where entry to the property is secured in whole or part by a fence, gate, wall or connected buildings, or as otherwise directed by this department. Entry key override switches shall be required on any exit door at any location which uses a card reader entry system and/or a magnetic door lock security system.

(b) *Location:* The Fire Inspector shall approve the location prior to installation of any rapid entry key box. Key boxes shall be located on the front of a building near the main entrance at grade level, unless otherwise directed.

(c) *Contents:* The owner, agent or on site manager shall provide the appropriate keys to the building to be placed in the key box. New keys shall be provided at such times when any locks are changed.

Examples of keys to be provided are:

1. A master key or keys to locked points of egress, whether interior or exterior.
2. Keys to locked mechanical rooms.
3. Keys to locked elevator rooms.
4. Keys to elevator controls.

5. Keys to fire alarm panels or equipment.

(d) *Compliance:* All new construction, buildings under construction after the date of this ordinance and buildings which change ownership interest after the date of this ordinance shall comply as a condition of their building permit and/or prior to occupancy. Owners of existing buildings subject to this section are not required, but are strongly encouraged, to comply with the terms of this section. Change of ownership shall not include transfers from a person or persons to an entity (or vice versa) so long as the owner(s) as of the date of this ordinance hold and retain a majority interest in the real estate.

(e) *Ordering:* Property owners shall be responsible for all costs of purchasing and installation of any key box or material lock box. The Town of Burlington Fire Department shall be responsible for ordering any key box, key override switch or material lock box required by this code.

(2) *Commercial Change in Occupancy:* Any owner, agent or occupant making a change in occupancy of an existing commercial building, or occupying a previously vacant space, to exclude any private dwelling portion thereof, shall be required to obtain a safety inspection by this department prior to the new tenant taking occupancy of any building or structure that was previously vacated or any change in occupancy of any existing building or structure or portion thereof.

(a) *Inspection:* The owner, agent or occupant of a commercial building shall schedule an appointment with the Fire Inspector for an

inspection of the building and occupied space(s). Any violations of this chapter or any other portion of the Town of Burlington Code observed at the time of inspection shall be corrected prior to the new tenant taking occupancy.

(b) *Fees:* There shall be no fee for this inspection.

(3) *Fire Lanes:* The Fire Chief or Fire Inspector shall establish fire lanes at any shopping center, school or business which present a potentially hazardous situation because of restricted access by department vehicles or parked cars.

(a) *Access Defined:* Fire lanes shall provide access to at least two (2) sides of all buildings 200 feet in length. For buildings over 200 feet long, fire lanes shall be provided for access to all four (4) sides of the building or group of buildings. Fire lanes shall be at least 30 feet in width with the road edge closest to the building. Any dead end fire lane more than 300 feet long, shall be provided with a turnaround area of at least 90 feet in diameter.

(b) *Markings and Signs:* Fire lanes shall be marked with freestanding signs, marked curbs, sidewalks and traffic surfaces with the words "FIRE LANE NO PARKING" painted in contrasting colors at a size and spacing approved by this department.

(c) *Violations:* In any area designated as a fire lane, parking shall be prohibited and shall result in the issuance of citations pursuant to the

Town of Burlington Municipal Ordinances. Any vehicle parked in a fire lane for more than 24 hours shall be towed at the owner's expense.

*Exception:* Any commercially licensed vehicle actively engaged in delivery or pick up shall be excluded from this section.

(4) *Barbecue Grills, Kettles & Outdoor Hibachies:* It shall be considered unlawful to ignite or burn inside any residential occupancy, any type of barbecue grill. A minimum distance of twenty-four inches shall be maintained from any combustible material outside. These devices shall be prohibited from use on any balcony within five feet of any opening into a dwelling or apartment.

(5) *Storage of Flammable Liquids:* When used in this section, the words "Flammable Liquids" shall include any volatile flammable liquid with a flash point at or below 100 degrees F. No person shall use, keep or store, or permit to be used, kept or stored, gasoline in containers greater than (6) gallons. Six gallons or less of gasoline shall be stored in approved safety cans. Nothing herein contained shall be construed as applying to gasoline contained in the tanks of motor vehicles, when such tanks are permanently connected with the motor engine they supply.

(6) *Storage of Combustible Materials and Equipment:* The following items shall be prohibited from being stored in basements or storage bins of apartments or other multi-family dwellings within the Town of Burlington:

(a) Charcoal, except in a metal container with a metal lid.

(b) Oily rags or dust mops.

(c) Flammable liquids of any nature other than new motor oils in original manufacturer's containers.

(d) Bottled gases, propane, acetylene, oxygen or other substances of similar nature.

(e) Gasoline motors and gasoline powered equipment, such as outboard motors, power lawn equipment, snow blowers, motorcycles etc.

(10) *Hazardous Materials*: This section shall apply to all hazardous materials or infectious agents, which shall mean any material or combination of materials 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 the environment because of its quantity, concentration or physical, chemical or infectious characteristics. This term includes, but is not limited to, products that are explosive, toxic, corrosive, flammable, irritants, strong sensitizers, pesticides or a biological hazard.

(a) *Reporting*: All persons, firms or organizations using, researching, storing, or producing hazardous materials and/or infectious agents shall notify the Fire Department in writing as prescribed by this section. (See Table 8.40.06 reporting limits).

(b) *Standards*: The manufacture, storage, handling and use of hazardous materials and/or infectious agents shall be safeguarded in accordance with the applicable NFPA

and industry standards and with the manufacturer's recommendations.

1. The Fire Inspector may require the separated storage or isolated storage of any hazardous or infectious material that in combination with other substances may bring about a fire, health hazard or explosion or may liberate a flammable, non-flammable or poisonous gas.

2. The Fire Inspector may require separation of hazardous or infectious materials from other storage facilities, when the quantity to be stored increases the fire, health or explosive hazard to any occupancy.

3. Limitation on storage quantities shall be considered with regard to proximity of these exposures and to congested commercial and industrial areas.

4. The Fire Inspector may require fire suppression, fire detection, on-site containment, smoke venting or control and/or other fire protection, life safety or environmental safe systems as deemed necessary.

(c) *Identification Markings*: Buildings, storage trailers, stationary tanks, areas and rooms of buildings that contain a hazardous or infectious

material shall be identified with signs in accordance with this section and NFPA 704, Identification of the Fire Hazards of Materials. Signs shall be maintained at all times and shall be located as directed by the Fire Inspector. Signs shall be durable, weather resistant and unobstructed. (See Table 8.40.06 for reporting limits).

1. A sign at least 7 ½ inches square with the required Identification numbers indicating the highest number of the most hazardous material for each hazard shall be conspicuously placed on or near the exterior door closest to the hazardous material.

2. A sign with no numbers, at least 7 ½ inches square shall be conspicuously placed on the front of the building as directed.

3. Doors that directly access a room or area that contains a hazardous or infectious material shall be identified with a numbered sign at least 7 ½ inches square. In any room that has more than one hazardous material, the sign shall list the highest number for each hazard classification.

4. Special hazards shall be identified in the lower quadrant of the sign as follows:

a. Radiation Hazard – Standard Radiation Symbol

b. Water Reactive Hazard – W

c. Oxidizer – OX

d. Biological Hazard – BIO

e. Corrosive – COR

(d) *Material Safety Data Sheets:* Material Safety Data Sheets (MSDS), shall be required for all materials which are stored, used or handled and shall be available on-site in a location approved by the Fire Inspector.

#### **8.40.05 Fire Prevention, Detection and Protection:**

(1) *Sprinkler System Plan Approval:* Prior to any modification to, or installation of a new sprinkler system, or the alteration of an existing sprinkler system, plans shall be submitted to this department or its designee for review, when not already required by the state of Wisconsin.

(a) *Standards:* All sprinkler systems must meet the standards of NFPA 13, "Standard for the Installation of Sprinkler Systems", NFPA13R, "Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and including Four Stories in Height", NFPA 25, "Standard for the Inspection, Testing and Maintenance for Water-Based Fire Protection Systems" and any other standards adopted by reference: in this code.

(b) *Submittals:* Four copies of the plans, specifications and calculations shall be submitted for review. Approved plans shall be stamped "Conditionally Approved", with a plan approval number, the date and signature of the approving party. One copy shall be kept on file by the Fire Inspector, while the other three copies shall be returned to the contractor. The conditional approval of sprinkler plans does not affirm the accuracy of any calculations performed by the contractor. Full responsibility for the accuracy of both the plans and calculations is the sole responsibility of the contractor.

(c) *Stop Work Order:* No work may begin on installation of a sprinkler system until plans have been submitted and reviewed by this

department or its designee and a permit obtained from the Fire Department. A "Stop Work" order may be given to any contractor, owner or agent who has begun work on a system without approved

plans and permit. All fees will be doubled and a special inspection fee of \$200.00 will be charged by this department. An inspection of all work completed at the time of the "Stop Work" order will be performed after plans have been approved. Should any discrepancies exist from the approved plans, it shall be corrected prior to a "Start Work" release being issued.

(d) *Fees:* Fees for plan approval shall be assigned by the designee of this department who is qualified to perform plan approvals, and shall be paid directly to that designee. Fees for sprinkler inspections shall be paid to the Town of Burlington Fire Department at the time plans are submitted for approval. Additional fees may be required by this department or that of the department of building inspection.

1. Site inspection during system installation  
\$75.00

2. Witness final acceptance test of system  
\$75.00

3. Fire Pumps \$100.00

(e) *Fire Pumps and Water Tanks:* If water supply is limited or static pressure drop provides inadequate water supply or pressure to any sprinkler system, a fire pump and or a water tank may be required. The fire inspector may require the installation of such at a cost to the

owner. Installation shall be according to NPFA 20 & 22 with plans submitted for approval.

(f) *Signaling:* Each sprinkler riser shall have both an internal alarm bell located at the riser, and an external alarm bell located on the nearest outside wall to signal the flow of water. For any system which uses a fire pump as a part of the sprinkler system, a red strobe light shall

be mounted on the outside wall of the pump house to signal pump operation. Location is to be approved by the Fire Inspector.

(2) *Other Fire Suppression Plan Approval:* Prior to any modification to, or installation of any new fire suppression system, or the alteration of an existing system, plans shall be submitted to this department and the department of building inspection for review and approval, when not already required by the State of Wisconsin..

(a) *Standards:* All fire suppression systems, other than water-based sprinkler systems, shall comply with this code and all other NFPA standards adopted by reference in this chapter.

(b) *Submittals:* Four copies of the plans and specifications shall be submitted for review to this department. Approved plans shall be stamped "Conditionally Approved", with a plan approval number, the date and signature of the approving party. One copy shall be kept on file by the Fire Inspector, while the other three copies shall be returned to the contractor. Full responsibility for the accuracy of any

plans and specifications is the sole responsibility of the contractor.

(c) *Stop Work Order*: No work may begin on installation of a fire suppression system until plans have been submitted and reviewed by this department and the department of building inspection and a permit obtained from the Fire Department. A "Stop Work" order may be given to any contractor, owner or agent who has begun work on a system without approved plans and permit. All fees will be doubled and a special inspection fee of \$200.00 will be charged by this department. An inspection of all work completed at the time of the "Stop Work" order will be performed after plans have been approved. Should any discrepancies exist from the approved plans, it shall be corrected prior to a "Start Work" release being issued.

(d) *Fees*: Fees for plan approval of fire suppression systems shall be paid to Town of Burlington Fire Department. Additional fees and permits may be required by this department, or that of the department of building inspection.

1. Plan review and permit \$75.00

2. Witness final acceptance test of system \$75.00

(3) *Fire Alarm and Detection Systems Plan Approval*: Prior to any modification to, or installation of a new fire alarm or detection system, or the alteration of an existing system, plans shall be submitted to this department for review, when not already required by the state of Wisconsin..

(a) *Standards*: All fire alarm or detection systems, shall comply with this code and that of NFPA 72, "National Fire Alarm Code", as well as all other standards adopted by reference in this chapter.

(b) *Submittals*: Four copies of plans and specifications shall be submitted for review to this department. Approved plans shall be stamped "Conditionally Approved", with a plan approval number and the date and signature of the approving party. One copy shall be kept on file by the Fire Inspector, while the other three copies shall be returned to the contractor. Full responsibility for the accuracy of any plans and specifications is the sole responsibility of the contractor.

(c) *Stop Work Order*: No work may begin on installation of a fire alarm or detection system until plans have been submitted and reviewed by this department and a permit obtained from the Fire Department. A "Stop Work" order may be given to any contractor, owner or agent who has begun work on a system without approved plans and permit. All fees will be doubled and a special inspection fee of \$200.00 will be charged by this department. An inspection of all work completed at the time of the "Stop Work" order will be performed after plans have been approved. Should any discrepancies exist from the approved plans, it shall be corrected prior to a "Start Work" release being issued.

(c) *Fees*: Fees for plan approval of a fire alarm or detection systems shall be paid to the Town of Burlington Fire Department. Additional fees and permits may be required by this department, or that of the department of building inspection.

1. Plan review and permit \$75.00

2. Witness final acceptance test of system \$75.00

(4) *Portable Fire Extinguishers:* Portable fire extinguishers shall be required in all public buildings and places of employment to include any building or structure located on such properties.

(a) *Standards:* All portable fire extinguishers shall comply with the provisions of this chapter and that of NFPA 1, "Fire Prevention Code", NFPA 10, "Portable Fire Extinguishers", and any other standards adopted by reference in this chapter.

(b) *Occupancy Certificates:* Prior to the granting of an occupancy certificate for new construction, or a change in occupancy certificate, the Fire Inspector shall approve the type, number and location of all portable fire extinguishers.

(c) *Special Occupancies:* Where ever aircraft refueling or aircraft engine repair service is performed, the standard "ABC" type extinguisher shall be replaced with a "Purple-K" type extinguisher.

(5) *Fire Doors and Fire Windows:* All penetrations through fire walls or smoke barriers shall be protected by fire doors or fire windows.

(a) *Standards:* All exits, fire doors and fire windows shall comply with NFPA 80, "Fire Doors and Fire Windows", NFPA 221, "Fire Walls and Fire Barrier Walls", and NFPA 1,

"Fire Prevention Code as well as all Other standards adopted by reference in this chapter.

(b) *Testing:* Whether required by this code or any other standard adopted by this chapter, all horizontal and vertical sliding and rolling doors or windows shall be tested annually to check for proper operation and full closure. Resetting of the release mechanism shall be done in accordance with the manufacturer's requirements.

(c) *Certified Contractor:* All work completed on fire doors or windows, to include testing and maintenance, shall be performed by a certified manufacturer's representative.

(d) *Records:* A written record of all tests, inspections and maintenance shall be kept on site for five (5) years, and made available for review by the Fire Inspector.

(6) *Private Hydrants and PIVs:* Only approved fire hydrants and post indicator valves (PIVs), shall be allowed for use on private property for the sole purpose of fire protection.

(a) *Inspection, Testing, Maintenance & Repair:*

1. Annual flow tests are required on all approved fire hydrants. Manual operation of all PIVs to the closed position shall also be required annually. Written records shall be maintained showing test results, dates, duration of tests, locations and who performed the tests. Records shall be kept on site and available for inspection for a period of no less than (7) seven years.



2. Approved fire hydrants and PIVs shall be maintained in proper operating condition at all times. Upon the request of the Fire Department, the owner shall perform such tests (to include flow tests), in order to demonstrate proper operating conditions.

3. Written records shall be maintained showing test results, dates, duration of tests, locations and who performed the tests. Records shall be kept on site and available for inspection for a period of no less than (7) seven years.

4. At no time shall any fire hydrant or PIV be obstructed under any circumstance. Obstructions may include, but are not limited to, snow accumulation, vegetation and refuse, parked vehicles, material or equipment storage.

5. Property owners shall immediately notify the Fire Department whenever a fire hydrant or PIV has been damaged or has become inoperable. Repairs to damaged or inoperable equipment shall be completed as soon as possible and tested before put back into service.

6. At anytime, when an owner is found not properly testing or maintaining their fire hydrants and/or PIVs, the Fire Department shall perform such tests at the expense of the owner.

7. Private water mains serving private fire hydrants shall be the same size as the public mains supplying the private water system. In any case, mains do not have to exceed 10 inches,

but shall be at least 6 inches in diameter.

(7) *Existing Systems:* Any fire prevention, detection or protection system already installed shall be considered an existing system and shall comply with the provisions of this chapter as previously set forth.

(a) *Smoke Detection Systems:* Whether battery operated or electrically interconnected, all smoke detectors shall be tested at least once every (6) six months. Written records shall be maintained showing test results, dates, duration of tests, locations and who performed the tests.

Records shall be kept on site and available for inspection for a period of no less than (7) seven years. At such times when records are found

to be missing or outdated for a period of more than (1) year, and the smoke detectors have been found to be missing or inoperable, the Fire

Inspector may order the installation or replacement of the existing system with new electrically interconnected smoke detectors to include the fire alarm control panel at a cost to the owner.

(b) *Manual Fire Alarm Systems:* Manual pull alarms shall be tested monthly by physically activating the device. Only one pull station need be tested each month if there are less than twelve locations in the protected building. Should there be more than twelve locations, additional stations must be tested at the same time with the intent of completing the entire system within one calendar year. Records shall be kept on site and available for inspection for a period of no less than (7) seven years. At such times when records are found to be missing or outdated for a

period of more than (1) year, and the pull alarm stations have been found to be missing or inoperable, the Fire Inspector may order the installation or replacement of the existing system or device with new system or device to include the fire alarm control panel at a cost to the owner. Manual fire alarms shall be tested in the presence of the Fire Inspector annually.

(c) *Sprinkler Systems*: No person shall be allowed to replace, add or modify more than (4) four sprinkler heads without first obtaining approval or approved plans from the Fire Inspector. Records shall be kept on site and available for inspection for a period of no less than (7) seven years. At such times when records are found to be missing or outdated for a period of more than (2) years, and the system or components have been found to be missing or inoperable, the Fire Inspector may order the installation or replacement of the existing system or device with a new system or device to include the fire alarm control panel at a cost to the owner. The annual sprinkler system test shall be performed in the presence of the Fire Inspector. (Ord. dated 11/11/10)

**Chapter 8.44  
Public Smoking**

**8.44.010 Adoption of State Law.**

**8.44.020 Definitions.**

**8.44.030 Smoking Prohibited.**

**8.44.040 Exceptions.**

**8.44.050 Penalties.**

**8.44.010 Adoption of State Law.**

The Town of Burlington adopts the provisions of state statute 101.123, regulating smoking except as otherwise provided in this Code, not in conflict with state statute 101.123, or other statutes or administrative rules.

**8.44.020 Definitions.**

The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning.

a. *Town Building*: as referenced in section 101.123 (2) (a) 8r, Wisconsin Statutes, including the buildings, porches, exterior stairway if any, patios, entrances/exits, landings, buildings owned or leased by the Town.

b. *Enclosed place*: means all space between a floor and ceiling that is bounded by walls, door, or windows, whether open or closed, covering more than 50 percent of the combined surface area of vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier whether temporary or permanent.

c. *Place of Employment*: means any indoor place that employees enter and carry out their work duties, such as office,

work area, employee lounge, restroom, conference room, meeting room, classroom, elevator, stairway, lobby, common area, cafeteria, or hallway.

d. *Smoking*: a cigar, cigarette, pipe or other lighted smoking equipment. (note: E-cigarettes are not included.)

**8.44.030 Smoking Prohibited**

1. Smoking is prohibited in any and all Town owned or leased buildings and enclosures, and all enclosed places, including taverns, restaurants, private clubs or retail establishments, as defined in 8.44.020 (subject to the exceptions in 8.44.040). Smoking is further prohibited in direct proximity to any point of access or entrance to these buildings or enclosures for the purpose of protecting and persevering the health and comfort of the public.

2. State signage requirements.

Signs setting forth the prohibition against smoking shall be placed in a conspicuous location in all buildings and enclosures subject to this Chapter, and shall comply with requirements established by the State of Wisconsin Department of Commerce, if any, and shall include information reasonably sufficient to inform individuals of the physical area within which smoking shall not be permitted. It is a violation of this section for an individual, following warning by any town employee or by a member of the public, to continue smoking within the posted area.

3. Designation of outside smoking areas. Notwithstanding any other provision of this section, any person in charge of a restaurant, tavern, private club or retail establishment may designate an outside area that is a reasonable distance from any

entrance to the restaurant, tavern, private club or retail establishment where customers, employees, or persons associated with that property may smoke as provided in section 101.123(4m), of the Wisconsin State Statutes governing local authority to regulate smoking on public property. Any person in charge of a restaurant, tavern, private club or retail establishment that designates an area for smoking which is a reasonable distance from any entrance to that property, shall assure that the designated area is kept free of litter including cigarette butts or other tobacco products.

**8.44.040 Exceptions.**

Prohibitions against smoking shall not apply to any of the following:

- a. A private residence.
- b. A room used by only one person in an assisted living facility as his or her residence.
- c. A room in an assisted living facility in which 2 or more persons reside if every person who lives in that room smokes and each of those persons has made a written request to the person in charge of that assisted living facility to be placed in a room where smoking is allowed.
- d. A retail tobacco store that has been in existence since June 3 2009 and in which the smoking of cigars and pipes have been allowed.

**8.44.050 Penalties.**

- a. Any person violating the state prohibition against smoking in enclosed places or upon those unenclosed spaces identified in section 101.123(d) and (e), Wisconsin Statutes, shall be subject to a forfeiture of not less than \$100 nor more than \$250, and upon failure to pay the forfeiture, may be subject to not less than

2, nor more than 5 days confinement in the county jail.

- b. Any person in charge of property as defined in section 101.123(1)(d), Wisconsin Statutes, who violates the provisions of section 101.123(2m) (b) to (d) Wisconsin Statutes, shall be subject to a forfeiture of \$100 and upon failure to pay the forfeiture may be confined in the county jail for a period of 2 days. No person may be held subject to more than \$100 total forfeiture for violations occurring on the same calendar day. For violations subject to the forfeiture provided in this paragraph, no citation shall be issued to a person who has not received a prior written warning notice.