

ORDINANCE NO. 2020-02

AN ORDINANCE PROVIDING REGULATION OF THE STORAGE, DISPOSAL, TRANSPORTATION AND TREATMENT OF SOLID WASTE WITHIN THE TOWN OF ONEIDA, OUTAGAMIE COUNTY, AND PROVIDING FOR THE COLLECTION OF RECYCLING AND MUNICIPAL SOLID WASTE WITHIN THE TOWN.

The Town Board, of the Town of Oneida, Outagamie County, does ordain as follows:

Article I. Storage, Disposal, Transportation and Treatment of Solid Waste

I-1. Purpose, applicability, exceptions and definitions for transportation, disposal, storage and treatment of solid waste.

A. Upon enactment, this article shall regulate, apply to and govern all persons or locations engaged in or encompassing the transportation, disposal, storage and treatment of solid waste in the Town of Oneida (Town), including upon Town roads. Such transportation, disposal, storage or treatment shall be permitted only under the terms and conditions set forth by this article.

B. The following shall not be deemed to come within the scope of this article:

- (1) Transportation, disposal, storage or treatment of animal waste resulting from an agricultural enterprise located within the Town.
- (2) Solid or hazardous waste facilities (collectively, "facilities") within the Town that are or were licensed by the Wisconsin Department of Natural Resources (DNR) and in operation on the date of adoption of this article or when this article is specified as not applicable under Chapter 289, Wis. Stats., or a negotiated agreement or arbitration award thereunder. However, expansion of these existing facilities shall be within the scope of this article.
- (3) Sanitary privies, seepage beds, septic tanks, wastewater, wastewater treatment sludge and the disposal and transportation of human waste products in the Town.

C. The following definitions shall apply to this article unless a different meaning appears from the context:

ACTIVE FILL AREA

The cells designed and constructed at the facility that are to be used for disposal of solid waste.

APPLICANT

A person applying for a license under this article to construct, operate or maintain a facility for the disposal, treatment or storage of solid waste or for the transportation of solid waste on any Town road.

CLOSURE or FINAL CLOSURE

The date when no further solid waste may be accepted at the facility pursuant to any license issued under this article or any license, plan or operation or plan or order of closure of the DNR, whichever date is earlier.

DNR

The Wisconsin Department of Natural Resources or its successor agency.

DISPOSE, DISPOSING or DISPOSAL

The discharge, deposit, injection, dumping, placing, littering, discarding, burying, throwing, emitting, emptying or abandoning of any solid waste, into or on any private or public land or on or into any water or air within the Town. This term does not include the storage or treatment of solid waste.

EMERGENCY or EMERGENCIES

An unforeseen circumstance that jeopardizes the public health or safety or the property of the Town or its residents.

EXPANSION

An increase in licensed capacity for disposal, treatment or storage of solid waste at an existing facility, at or adjacent to the existing facility.

GARBAGE

Discarded putrescible animal or vegetable refuse resulting from the handling, serving, preparing, processing, storing or consuming of food.

GENERATE, GENERATING, GENERATED

The act or process that results in the formation of solid waste or by-products.

HAZARDOUS WASTE

Any solid waste, including petroleum products or substances, and which meets the definition of hazardous waste in Chapter 289, Wis. Stats., its successor chapters, the Federal Resource Conservation and Recovery Act (RCRA), Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), Toxic Substance Control Act (TSCA), Clean Air Act (CAA) or identified as hazardous waste by any regulations established by the DNR or the United States Environmental Protection Agency (USEPA).¹¹¹

HAZARDOUS WASTE FACILITY

A facility for the treatment, storage or disposal of hazardous waste and includes the land where the facility is located.

INCINERATING, INCINERATORS or INCINERATION

Any technique or process of controlled burning of solid waste primarily to achieve volume reduction and/or to change waste characteristics or capture the heat content of the burnables but does not include open burning.

LANDSPREADING

The disposal of solid waste in thin layers onto the land surface and/or the incorporation into the top several feet of the surface soil for agricultural, silvicultural and/or solid waste disposal purposes.

LEACHATE

Water or other liquid which has been contaminated by dissolved or suspended materials due to contact with solid waste or gases therefrom.

LONG-TERM CARE

The routine care, maintenance and monitoring of a facility after closure.

MINING SOLID WASTE

All waste soil, rock, mineral, liquid, vegetation and other material, except merchantable byproducts, directly resulting from or displaced by prospecting or mining or from the beneficiating, concentrating or refining of minerals and shall include all waste materials from other sources deposited on or in a prospecting or mining site.

OPEN BURNING

Combustion of solid waste where the products of combustion are emitted directly to the ambient air without passing through a stack or chimney. "Open burning" does not include the combustion of solid waste occurring at a properly operated and licensed air curtain destructor or incinerator.

POLYCHLORINATED BIPHENYLS (PCBS)

The class of organic compounds generally known as polychlorinated biphenyls and includes any of several compounds or mixtures of compounds produced by replacing two or more hydrogen atoms on the biphenyl molecule with chlorine atoms.

PERSON

Any natural individual, firm, sole proprietorship, trust, partnership, association, corporation or municipality, and also means any responsible member, officer, agent, and employee thereof.

PRINCIPAL STRUCTURE

A residential use, the primary residential building, facility or structure designed for and used for single-family dwelling or designed and used as apartments, including any building, facility or structure which is accessory to or incidental to the primary residential building, facility or structure. At locations containing no residential use, the principal structure shall be the primary building, facility or structure designed for and used by the majority of the public for resort, employment, assemblage, lodging, trade,

traffic or occupancy, including any building, facility or structure which is accessory to and incidental to the primary building, facility or structure.

PROCESSING

Any technique used to facilitate or further transform, shape, compact or utilize solid waste, to wit: techniques such as baling, shredding, pulverizing, composting or separating.

RECOVERABLE SOLID WASTE

Solid waste which through separation, processing or incineration will be converted into usable materials, products or energy.

REMEDIAL ACTION

Those actions consistent with a permanent remedy in the event of a release or threatened release of solid waste (release) into the environment, to prevent, ameliorate or minimize the release so that the contaminants do not migrate to cause substantial danger to present or future public health or welfare or to the environment. The term includes but is not limited to such actions at the location of the release, storage or confinement by perimeter protection using dikes, trenches or ditches, placing of a clay cover, neutralization, removal of released wastes, recycling or reuse, diversion, destruction, segregation, dredging or excavation, repair or replacement of leaking containers, collection of leachate and runoff, on-site treatment or incineration, the providing of alternative water supplies, and any monitoring of the groundwater, surface waste or air reasonably required to assure that such actions protect the public health and welfare or the environment. The term also includes the permanent relocation of residents where the Town determines such relocation is more cost-effective than, and environmentally preferable to, the transportation, storage, treatment, destruction or secure disposition off-site of hazardous wastes.

REMOVAL ACTION

The short-term actions to mitigate, contain or remove released substances for off-site treatment, storage or disposal and such other actions as may be necessary in the event of release to monitor, assess and evaluate the release. The term also includes, without being limited to, security fencing or other measures to limit access to a facility or operations related thereto, the providing of temporary alternative water supplies to residents of the Town, temporary evacuation and housing of residents of the Town.

SLUDGE

Any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility or any other waste having similar physical characteristics.

SOLID WASTE

Any nonhazardous waste identified as garbage, ash, litter, rubbish, refuse or putrescible material and other discarded or salvageable materials, including solid, liquid, semisolid, or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations, and from community activities which are not hazardous wastes. Solid waste does not include hazardous wastes, mining solid waste, solids or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Chapter 147, Wis. Stats., or its successor chapter or source, special nuclear radioactive material or by-product material as defined under § 254.31, Wis. Stats., or its successor provisions.

SOLID WASTE FACILITY

A facility in the Town for solid waste treatment, storage or disposal, and includes commercial, industrial, municipal, state and federal establishments or operations such as, without limitation because of enumeration, sanitary landfills, dumps, demotion facilities, land disposal sites, incinerators, transfer stations, storage facilities, collection and transportation operations and processing, treatment and recovery facilities. This term includes the land where the facility is located. This term does not include a hazardous waste facility. This term does not include: a facility for the processing of scrap iron, steel or nonferrous metal using large machines to produce a principal product of scrap metal for sale or use for remelting purposes; a facility which uses large machines to sort, grade, compact or bale clean wastepaper, fibers or plastics, not mixed with other solid waste, for sale or use for recycling purposes; or an auto junkyard, scrap metal salvage yard or a facility for the processing of minerals or mining refuse.

STORE, STORING or STORAGE

The accumulating or holding of solid waste for a period exceeding 90 days.

TREAT, TREATING or TREATMENT

Any technique or process which is designed to change the physical, chemical or biological character or complexion of solid waste. "Treatment" includes incineration.

I-2. Disposal regulations for solid waste.

A person (person), who is a resident residing within the Town, or a person who is occupying a residential, commercial or industrial site located within the Town, shall remove from the residence or site for storage, disposal or treatment at a solid waste facility, that solid waste which is generated at the residence or site at least every month, unless the solid waste is processed at the residence or site consistent with this article or unless such solid waste is placed in appropriate solid waste collection containers and accumulated in such manner as to not create a private or public nuisance. A person shall

remove from the residence or site for storage, disposal or treatment to a facility all other solid waste which is generated at the residence or site as follows: at least once per month, if the solid waste is accumulated inside the principal structure; or once every two weeks if the solid waste is accumulated outside the principal structure.

I-3. Disposal, treatment and storage of solid waste.

No person shall dispose, store or treat within the Town any solid waste, except as noted in Section I-2 and as follows:

A. A person may dispose, store or treat solid waste at a facility located within the Town, only if the facility is validly licensed by the Town for the disposal, storage or treatment of the type of solid waste being transported to or generated at the facility.

B. Off-site collection.

(1) A person who is a resident within the Town or a person who is occupying a residential, commercial or industrial site located within the Town, may dispose and accumulate solid waste which has been generated at the residence or at the site in authorized solid waste collection containers not located at the residence or the site, but located within the Town, if the Town by ordinance:

(a) Authorizes disposal and storage of solid waste in off-site solid waste collection containers;

(b) Establishes the type, amount and source of solid waste authorized for disposal and storage in these off-site containers;

(c) Establishes requirements to regulate and control the disposal, storage, collection and transportation of solid waste at these off-site solid waste containers; and

(d) Approves the site locations for such off-site solid waste collection containers.

(2) A person who disposes or stores solid waste under this provision shall fully comply with any applicable licenses, permits, conditions, regulations or requirements as may be established by the Town through ordinance or permit condition and any other more stringent condition established by the owner or operator of the off-site collection containers.

C. A person who resides within the Town may dispose at the residence or accumulate in solid waste collection containers at the residence, garbage and other solid waste generated at the residence when in compliance with Section I-2, federal and state laws and regulations by this article and by any other ordinance established by the Town.

For the purposes of this subsection only, “disposal” may consist of open burning, provided such burning does not create nuisance conditions or is contrary to county or state laws, ordinances or regulations.

- D. A person who is occupying a residential, commercial or industrial site located within the Town may dispose at the site or accumulate in solid waste collection containers at the site, garbage and other solid waste generated at the site, when in compliance with Section I-2.
- E. A person who is a resident within the Town or a person who is occupying a residential, commercial or industrial site located within the Town may dispose and accumulate authorized recyclable solid waste, which has been generated at the residence or at the site, at authorized off-site recycling centers within the Town, if the Town by ordinance:
 - (1) Authorizes the disposal and accumulation of off-site recyclable solid waste;
 - (2) Establishes the type, source and amount of recyclable solid wastes authorized for disposal and accumulation at the off-site recycling centers;
 - (3) Establishes requirements to regulate and control the disposal, accumulation, storage, collection and transportation of solid waste at these off-site recycling centers; and
 - (4) Approves the site locations for such off-site authorized recycling centers.
- F. A person who resides within the Town or a person who is occupying a residential, commercial or industrial site located within the Town may dispose and treat solid waste, including by landspreading, incinerating or processing the solid waste at the residence or at the site if the landspreading, incinerating or processing does not create a public or private nuisance and if the quantity of solid waste that is landspread, incinerated or processed was generated exclusively at the residence or at the site. Landspreading activities exempt under state law or regulations shall be exempt from this article.
- G. No person shall dispose, store or treat any solid waste within the Town, except as provided in Section I-2, and except as provided in the above noted Subsection F, unless the person has received and complies with a valid license for a facility from the Town Board and the license specifically authorizes disposal, storage or treatment operations at the facility. Each license issued pursuant to this article shall contain as a condition thereof that the license incorporates and the licensee shall fully comply with all federal and state licenses, permits, conditions thereof, regulations and laws pertaining to the facility. In the event of a conflict, the most stringent condition of any federal, state or Town license, permit, regulation, law or ordinance shall apply.

- H. Any person disposing, storing, treating, any solid waste in the Town, except as authorized by this article, shall notify the Town Clerk-Treasurer in writing within 24 hours of knowledge of such occurrence and shall detail in this notification the time, place and possible cause or causes of such occurrence, and the type, source and amount of solid waste involved in this occurrence. Upon knowledge of such occurrence, the person shall immediately take all actions appropriate and necessary to restore the environment to its prior condition, to minimize any harmful effects from such occurrences to the Town and its residents and to comply with any orders or regulations of the DNR, USEPA and any other state or federal agency having jurisdiction in the matter.

I-4. Disposal, storage and treatment of hazardous waste.

- A. No person shall dispose, store or treat any polychlorinated biphenyls (PCBs), any chlorinated dibenzo-dioxins and dibenzofurans (dioxins) or any radioactive material within the Town.
- B. No person shall dispose, store or treat any other hazardous waste within the Town, except as follows:
 - (1) A person who resides within the Town or a person who is occupying a residential, commercial or industrial site located within the Town, may accumulate in aboveground containers or store in aboveground tanks at the residence or at the site, hazardous waste, if the hazardous waste has been generated at the residence or at the site and if:
 - (a) The person removes the hazardous waste from the residence or site within 90 days of generation and transports the hazardous waste for disposal, storage or treatment to a hazardous waste facility licensed by the DNR or by the USEPA;
 - (b) The person holds the accumulated hazardous waste in an area at the residence or at the site that is entirely enclosed or roofed structure with limited or restricted access; and
 - (c) The person holds the accumulated hazardous waste in an area that does not exceed 1,500 square feet.
- C. No person may dispose, store or treat any hazardous waste within the Town, except as provided in Subsection B, unless the person has received and is in compliance with a valid license for a hazardous waste facility from the Town. The license must specifically authorize the disposal, storage or treatment of the hazardous waste at the facility.

I-5. Constructing, maintaining and operating a solid waste facility.

No person shall construct, maintain or operate a solid waste facility for disposal, storage or treatment of solid waste within the Town, unless the person has received a valid license from the Town Board specifically authorizing construction, maintenance and operation of a solid waste facility. Upon issuance of the license, the licensee shall fully comply with conditions therein.

I-6. Constructing, maintaining and operating a hazardous waste facility.

No person shall construct, maintain or operate the waste handling portion of a hazardous waste facility for disposal, storage or treatment of solid waste within the Town limits, unless the person has received a license from the Town Board authorizing the construction, maintenance or operation of the hazardous waste facility. Upon issuance of the license, the licensee shall fully comply with conditions therein.

I-7. License application/bond/hearing and license issuance for a solid waste facility or hazardous waste facility.

- A. Applications for the licensing of a facility under this article shall be filed by the applicant with the Town Clerk-Treasurer in writing on a form provided by the Town Clerk-Treasurer and accompanied by the initial application fee which shall be in the amount of \$5,000, unless waived or reduced by the Town Board. No application shall be accepted by Town Clerk-Treasurer until the applicant has submitted and has had approved by the DNR an initial site report and feasibility report required pursuant to Chapter 289, Wis. Stats., Solid Waste Facilities, or its successor chapters. In addition, the Town Board may charge the applicant an additional application fee to fully or partially reimburse the Town for appropriate and necessary costs and expenses incurred by the Town in the processing of the application, including, but not limited, to costs and reasonable expenses incurred by the Town for attorneys' fees and experts' fees related to the application process. As a further condition of a license, including a license for transportation issued under this Ordinance, the Town Board may require the applicant to show that all claims by owners of property for compensation due to the diminished value of property located within a one-mile radius of the facility caused by the presence, operation or closure requirements placed on the facility have been compromised or will be resolved by adjudication before the effective date of the license. The total application fees to the applicant, including the initial application fee, shall not, however, exceed \$20,000 for any application. A license is not assignable. All information provided in the application shall be accompanied by a sworn statement, under oath or affirmation, by the applicant, stating that the information provided within the application was obtained under this supervision and direction, after diligent inquiry, and is true and factual to the best of his knowledge and belief.
- B. No license shall be issued or be effective unless there is on file with the Town Clerk-Treasurer a cash bond or a bond with a corporate surety, duly licensed in the State of Wisconsin, in penal amount of \$200,000 to assure that:

- (1) The applicant and its representatives, agents and assigns will comply with all the terms, conditions, provisions, requirements, commitments, indemnifications and specifications contained in this article, any license issued thereunder or any sworn statement signed by the applicant pursuant to this article.
- (2) If a corporate bond is offered, it shall be executed by a company authorized to transact business in the State of Wisconsin. If a cash bond is offered, it shall be deposited with the Town Clerk-Treasurer, who shall give an official receipt therefor reciting that said cash has been deposited in compliance with and subject to provisions of this article.
- (3) Failure by the applicant to maintain the approved bond, during the period of the license, shall automatically terminate the license. Upon the failure to maintain the approved bond by the applicant, the Town Board shall have the right to obtain a court order that will terminate any future disposal, storage or treatment operations (collectively "operations") and that will require immediate final closure of the facility.

Before acceptance of the bond, the bond shall be approved by the Town Board.

- C. Prior to any general public hearing on the application for license, the Town Board shall examine the application and any other plans or pertinent information submitted by the applicant. The Town Board shall then commence investigation of the proposed facility.
 - (1) The Town Board shall also determine whether or not the granting of a license in the location described in the application would be a violation of any zoning regulations of the Town or the county or create a hazard, nuisance or detriment to the public health or safety to the residents of the Town. The Town Board shall also determine what, if any, effects or impacts such proposed facility may have for the future upon the character of the local neighborhood, traffic conditions, municipal services and costs, public utility needs, and any other effects and impacts pertinent to the short-term and long-term health, environmental, financial, safety and welfare conditions of the Town and its residents.
 - (2) Prior to issuance or denial of any license and at least 90 days after the Town Board deems the application for license complete, the Town approves the financial surety and receives the initial application fee from the applicant, there shall be a general public hearing on the application for a license.
 - (3) The general public hearing shall be conducted under the following terms:
 - (a) A notice shall be given as a Class 3 notice as described in § 985.07, Wis. Stats., or its successor provision.

- (b) The cost of publication of any such notice shall be deposited and paid by the applicant in advance of publication to the Town Clerk-Treasurer.
 - (c) A general public hearing shall be held on the date specified in the notice or any adjourned date; however, such general public hearing shall be merely advisory to the Town Board in regard to any determination which may later be made upon any such application for license.
 - (d) The applicant shall have the right to appear at the public hearing and to describe orally and with written documentation the proposed facility. The applicant and the Town may be represented by legal counsel and may present evidence with any witnesses. The testimony of all witnesses is subject to examination and cross-examination under oath. The public hearing may, upon request by the applicant or the Town Board, be recorded, with any expense for the recording to be paid by the applicant.
- D. The application for license shall be acted upon by the Town Board within 60 days after the general public hearing, except that if the Board adopts a siting resolution under § 289.33, Wis. Stats., or its successor provisions. The sixty-day period for acting upon the application as noted above shall not be applicable until a negotiated written agreement has been signed and approved by all necessary parties under § 289.33, Wis. Stats., or its successor provisions, or until an arbitration award by the Wisconsin Waste Facility Siting Board or its successor agency has been received in writing by the Town Board.^[2]
- E. The Town Board shall evaluate the proposed license for the facility and any conditions to be attached to the license based on information provided in the application, additional written information requested of the applicant by the Town Board, the evidence elicited at the general public hearing and other pertinent information received from the applicant, any county, state or federal agency or from any other interested persons. The Town Board shall specifically consider the following in its determination on licensure and any conditions which may be attached to the license:
- (1) Reports and recommendations received by the Town Board from other units or agencies of federal or state government and any agent, counsel or expert employed or retained by the Town.
 - (2) The potential short-term and long-term effects and impacts of the proposed facility based on the proposed location, including its effects or impact on the following:
 - (a) Existing roads, bridges, traffic flow, traffic patterns, exits, designated access routes (both primary and secondary);
 - (b) Surface water quality and drainage;

- (c) Groundwater quality and public and private drinking water quality;
 - (d) Air quality;
 - (e) Adjacent wetlands, floodplains, forests, agricultural and unique lands, and existing topography and vegetation;
 - (f) Current and future land uses and land values;
 - (g) Soil erosion;
 - (h) Town and county zoning and Town and county planning;
 - (i) Town appropriations and revenues;
 - (j) Public safety and health of the Town residents;
 - (k) Existing wildlife habitat and existing domestic animals.
- (3) The potential for the applicant, based on the application submitted, to fully comply with the conditions and regulations enumerated in this article and with all of the conditions included in the license.

F. Relicensing or transfer.

- (1) All licenses and the conditions written thereunder issued to the applicant shall be effective and issued for the period from July 1 to June 30 of the next year. The applicant shall reapply to the Town Clerk-Treasurer for the annual license at least 120 days in advance of the June 30 deadline. The filing procedure and fees established for reapplication and reissuance shall be the same as the initial application process. Upon determination by Town Board that the reapplication is complete, the Town Board may waive the requirements for public hearing and waive or reduce the application fee.
- (2) The license shall not be transferable. Any transfer of ownership, operation, maintenance or possession or control of the facility by the applicant shall automatically terminate the license. No license shall be issued or reissued by the Town until sufficient proof has been provided to the Town Board by the applicant that only the applicant will operate and maintain the facility during the licensure period.
- (3) The license shall not be deemed reissued until the Town Clerk-Treasurer receives the relicensing fee, written acknowledgment of the receipt of the reissued license by the applicant and written acknowledgement by the applicant of the applicant's intent to comply with this article, the reissued license and each condition attached

to the reissued license. Failure by the applicant to submit written acknowledgment or agreement to fully comply within 15 days of receipt shall be deemed as withdrawal of reapplication by the applicant.

I-8. Revocation of license and appeal on revocation of license.

- A. Any license issued to an applicant under provisions of this article may be revoked by the Town Board for any violation of the facility's license related to operations, mishandling or willful or grossly negligent release of solid waste or violations of this article. Revocation will only be effective after a public hearing has been held by the Town Board upon a published Class 1 Notice as defined in § 985.07, Wis. Stats., or its successor provisions. No hearing shall be required for termination of the license due to failure of the applicant to maintain the approved bond, provide written acknowledgement of intent to comply with the license or the transfer or assignment by the applicant of ownership, operation, maintenance, possession or control of the facility. The Town Board may, if necessary, seek to enforce this article or any license issued under it through court order enjoining any person or applicant from continued or future construction, operation, maintenance, transportation, storage, treatment or disposal of solid waste at the facility, including where the person or applicant has violated any condition of the license or this article or has caused or contributed to a public nuisance at or near the facility.
- B. Any proper appeal by a person for revocation by the Town Board of a license shall be reviewed as provided in Chapter 68, Wis. Stats., or its successor provisions.

I-9. General regulations regarding solid waste and hazardous waste facilities.

The following general article provisions shall be applicable to persons constructing, operating, maintaining, closing or providing long-term care of a facility in the Town or any person transporting solid waste to and from a facility through the Town.

A. Transportation requirements.

- (1) No person, including any person licensed by the Town (licensee), shall use any Town roadway as a route of travel for construction, operation, maintenance, closure, or long-term care of a facility or the transportation of solid waste to or from a facility or through the Town, unless that roadway is established and authorized by the Town Board as a designated roadway for travel for such purposes and unless the person fully complies with all Town roadway regulations and orders and obtains a license therefor. The Town Board may condition the effective date of the license under this subsection.
- (2) Any person transporting solid waste or materials for the construction, operation, maintenance, closure and long-term care of a facility through the Town shall use vehicles that are closed, constructed, operated and filled in such a manner to prevent any portion of the solid waste or other materials from

discharging, leaking, spilling, falling or escaping from the vehicle onto any public or private property in the Town, including but not limited to any road, street or alley.

- (3) Any person transporting solid waste or the materials for constructing, operating, maintaining, closing or providing long-term care at a facility on any Town roadways shall only transport such solid waste or materials during the hours and days established and authorized by the Town Board.
- (4) Every licensee shall prepare a list of authorized transporters who will be allowed to transport solid waste or other materials to or from the facility. The list which shall contain at least the names, addresses and telephone numbers of the authorized transporters and shall be filed with the Town Clerk-Treasurer prior to commencement of operations. A facility may only accept solid waste from a person whose name, address and telephone number appears on the facility's list of transporters.

B. Report requirements.

- (1) Each licensee shall file an annual written report by April 1 with the Town Clerk-Treasurer with an attached sworn statement verifying the completeness of the enclosed report, detailing the following: the prior year's disposal in cubic yards and tons; all storage and treatment activity at the facility; the type or types of solid waste disposed, stored or treated during that prior year; the source or sources of any hazardous waste delivered to, disposed at, stored, accumulated or treated during that prior year; and the names and addresses of all responsible parties authorized to manage and control the daily operations. In addition, the person shall provide any or all of the following if requested by the Town Board:
 - (a) Copies received by the licensee during the prior year of any groundwater, gas, leachate and air quality testing or monitoring data related to the facility or properties in the vicinity of the facility;
 - (b) Copies received by the licensee, during the prior year, of all correspondence, reports, citizen complaints and inquiries and any administrative documents and court documents related to the compliance with federal or state laws or regulations pertaining to storage, treatment, disposal or handling of solid waste and which pertain to the facility.
- (2) Every licensee shall require all persons transporting solid waste to or from the facility during operations to complete and sign a form at the time of entering the facility, noting on the form the following:
 - (a) The source of the waste;

- (b) The type of waste;
 - (c) The amount of waste;
 - (d) The date of disposal, storage or treatment;
 - (e) The name and address of the authorized transporter;
 - (f) The signature of the authorized transporter or the transporter's agent.
- (3) Copies of these forms shall be kept on the premises at all times during the operations and shall be available to the Town Board upon request for review and copying.
- (4) Every licensee shall report during construction, operation, maintenance, closure and longterm care of the facility within 24 hours, in writing to the Town Clerk-Treasurer, any information received by the licensee, regarding the following occurrences related to or at the facility:
- (a) Any hazardous waste not covered by the terms of the license which enter or exit the facility whether or not disposed, stored or treated at the facility;
 - (b) Any permanent, emergency or temporary conditions which may or did require closing of the facility, including for fire, explosion, other public health or safety conditions or repair or reconstruction of the facility;
 - (c) Any notice or other document relating to a government ordered closing of the facility;
 - (d) Any transfer or assignment of ownership, possession, control or operation of the facility.

C. Operation requirements.

- (1) Notwithstanding licensure under this article, the Town may commence and maintain an action under statutory or common law nuisance against any person, including a licensee, who creates or continues a nuisance at the facility or in the transportation of solid wastes to or from a facility or through the Town. This remedy shall be in addition to the revocation procedures available under the Ordinance.
- (2) Every licensee shall daily inspect the facility and roadways used to transport solid waste to or from the facility and when appropriate, remove any solid waste disposed or discharged on the roadways or rights-of-way.

- (3) Every licensee shall cover or spray all roads and haulways at the facility with sufficient and necessary materials, including water, to eliminate blowing dust.
- (4) Every licensee shall:
 - (a) Erect and maintain temporary and permanent fences or take such other measures as may be appropriate and necessary to control the blowing of paper and the discharging of other materials from the facility;
 - (b) Provide and maintain appropriate and necessary physical and personnel security protections including fences and lockable gates;
 - (c) Lock any unlocked gates at the facility except during authorized hours of operation or except during emergencies;
 - (d) Conduct the operations in such a manner that dust, dirt, debris or other materials will not be carried by wind across the boundary of the facility onto adjoining properties; and
 - (e) Provide the sufficient cover materials for the solid waste at the end of each operational day and at such other times of an operational day when wind conditions warrant, to prevent blowing papers and unsightly conditions at the facility.
- (5) Every facility shall have an attendant at the facility whenever operations are occurring. An attendant shall be “on call” to respond to emergencies whenever operations are not occurring at facility. The licensee shall provide to the Town Clerk-Treasurer in writing the names, addresses and telephone numbers of all attendants who will be at the facility during operations or who will be “on call.”
- (6) Every licensee shall provide to the Town Clerk-Treasurer a list of the names, addresses and telephone numbers of the individual who (are) responsible to manage, control and administer the facility. The list shall be provided to the Town Clerk-Treasurer prior to the commencement of operations and updated at least on an annual basis.
- (7) Any licensee who stores materials at a facility must store such materials in a building and in such a manner as to prevent harborage of rats or other vermin and to avoid nuisance conditions at the facility. The licensee shall place all salvaged material into the building on a daily basis so that no material is left uncovered or uncontained during the night or on the weekends. The licensee shall exterminate insects and rodents and shall destroy all noxious weeds at the facility as directed by the Town Board.

- (8) Each licensee shall maintain sufficient firefighting equipment and other appropriate emergency equipment at all times at the facility. Each licensee shall immediately begin remediation upon receiving information that failure to remediate presents a danger or a reasonable threat of danger to the public health, safety or welfare of any person or property.
- (9) No licensee may locate, construct, operate or maintain a facility where any constituents or byproducts of the solid waste would seep, spill, drain, empty, or escape from the facility and or pollute the groundwater, surface water or the ambient air.
- (10) Each licensee shall construct, operate and maintain all private access roads and haulways as all-weather roads and shall maintain the roads and haulways in all types of weather conditions. Each licensee shall monitor and test air quality at the perimeters of the facility as necessary and appropriate or as ordered by the Town Board to prevent dusts, debris or other windblown substances from creating nuisance conditions on properties bordering the facility.
- (11) No person, including a licensee, may operate or maintain a facility so that it creates a potential for fire, explosion or the potential to liberate hazardous or poisonous gases from the facility.
- (12) No person, including a licensee, may knowingly dispose, store or treat any hazardous waste at a solid waste facility. A licensee shall separate or isolate from the general solid waste mass all solid waste, which in combination with another solid or hazardous waste, may cause a fire, explosion or liberation of a hazardous or poisonous gas.
- (13) No person may construct, operate or maintain any buildings or any equipment at a facility other than buildings and equipment appropriate and necessary for the construction, operation, maintenance, closure and long-term care of the facility. A facility may not be used for the storage of unrelated vehicles, equipment or materials. No person, including a licensee, may construct, operate or maintain a facility or allow any other person to operate or maintain any business, occupation, enterprise or operation at the facility except that the specific use be authorized by the license.
- (14) Each licensee shall make all reasonable efforts to cover with clean earthen fill material all hoses or ponds within the facility to the existing topography, except for the active fill area and except for any sedimentation basin designed and constructed to accept surface drainage from the facility. No licensee may discharge the water or sediment from a sedimentation basin into any surface water until that surface water discharge has been approved by the DNR.

- (15) Each licensee shall maintain and not remove or cause to have removed from the facility, except at the active fill area, any topsoil. Topsoil removed by the licensee from the active fill area shall not be removed from the facility.
- (16) A licensee shall provide and maintain sufficient landscaping for the purpose of providing natural noise and natural aesthetic visual barriers at the facility. In the event the noise and aesthetic visual barriers are lost or destroyed for any reason, the licensee shall, as soon as weather conditions permit, replace these natural barriers with new natural barriers that have been approved by the Town Board.
- (17) A licensee shall plant and replant, as necessary and appropriate, all berms, if any, at the facility with grass or other appropriate vegetation to prevent or reduce erosion.
- (18) A licensee shall allow the Town Board or its designated representative(s) access to the site for inspections at any reasonable time that access is requested. A licensee shall provide the Town Board or its designated representative access to and the opportunity to review and copy any analysis of wastes, stored materials, soils, leachate, groundwater, surface water, or dust which was made pursuant to a requirement of this article, the facility's federal, state or Town license or to investigate any complaint about nuisance conditions and to take samples of the above noted materials for analysis.
- (19) No person, including the licensee, may dispose, store or treat polychlorinated biphenyls (PCBs), any dioxins or any radioactive material at a facility or at any other location within the Town. This prohibition does not prevent the use of PCB containing materials, provided such use is in conformance with the Toxic Substances Control Act and its implementing regulations.
- (20) Each licensee shall provide and maintain at least one functional automatic security light and telephone and electrical services (ervices), at its expense, within the facility for lighting during non-daylight hours. The security light and services shall be installed and operational prior to commencement of any operations.
- (21) Every licensee shall, at its expense, install and maintain at or near the entrance to the facility a sign which shall contain a statement in large letters of at least 12 inches in height that reads "NO HAZARDOUS AND OTHER UNAUTHORIZED SOLID WASTE IS ACCEPTED." The licensee shall keep the sign clean, visible and readable to those entering the facility. This sign shall be installed prior to commencement of operations.
- (22) No persons, including a licensee, may construct, install or maintain in the Town any signs that will identify the existence or location of the facility, except those signs otherwise noted in this article, applicable zoning regulations, or required by the DNR and approved by the Town Board.

- (23) No licensee may conduct or allow open burning at a facility unless written approval of the Town Board has been granted.

D. Financial requirements.

- (1) Each licensee shall reimburse the Town for all additional reasonable costs which are not covered by application and renewal fees and which are incurred by the Town in issuing the license or monitoring compliance therewith, including but not limited to the following: the cost of responding to or acting upon any fires, discharges, explosions, accidents, hazards, or other emergency needs at the facility; and the costs of investigating complaints about the operations. The Town, after incurring these costs, shall determine the reasonable costs to be reimbursed by the licensee.
- (2) The Town, during the license period, shall not be obligated, nor shall it have any duty or responsibility to the licensee to acquire or supply any additional or specialized machinery or equipment to be used for occurrences such as fires, accidents, explosions, discharges or hazards, or to be used for the other emergency needs at or near the facility.
- (3) The Town shall not be obligated, nor shall it have any duty or responsibility to the licensee to employ or retain any additional or specialized personnel to be used for discharges or hazards or to be used for other emergency needs at or near the facility.

I-10. Violations and penalties.

Any person violating this article upon conviction shall be subject to the penalties provided in the Town Fee and Forfeiture Schedule. In addition to any other penalty for violating this article, the cost of abating a public nuisance by the Town shall be assessed as a special charge against the real estate in the Town of a person causing such nuisance. In addition to any other legal relief available to the Town for violation of this article, the Town Board may take appropriate legal action or proceedings to recover damages, to abate and remove any nuisance and to enjoin further violations of this article.

I-11. Authority.

This article is enacted pursuant to §§ 60.22, 60.54, 61.34, 66.0415, 66.0119, 66.0407, Wis. Stats.

Article II. Recycling and Municipal Solid Waste Collection

II-12. Title.

The title of this article shall be “Recycling and Municipal Solid Waste Collection.”

II-13. Purpose.

The purpose of this article is to regulate the accumulation, separation, and disposal of solid waste within the Town and to promote recycling, composting, and resource recovery through the administration of an effective recycling program, as provided in Wis. Stats. §§ 287.09 and 287.11 and Wis. Admin. Code NR Ch. 544.

II-14. Interpretation.

In their interpretation and application, the provisions of this article shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by statute. Where any terms or requirements of this article may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this article is required by statute, or by a standard in Wis. Admin. Code NR Ch. 544 and where this article provision is unclear, the provision shall be interpreted in light of the statutes and the Wis. Admin. Code NR Ch. 544 standards in effect on the date of the adoption of this article, or in effect on the date of the most recent text amendment to this article.

II-15. Statutory authority, applicability and administration.

This article is adopted under Wis. Stats. § 287.09(2). It is intended to apply to all persons within the Town and its provisions shall be administered by the Board, and/or other Town officials designated by the Board.

II-16. Definitions.

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

AUTOMOTIVE ENGINE OIL

Has the meaning given in Wis. Stats. § 287.15(1)(a).

BIMETAL CONTAINER

A container, including beverages, that is made primarily of a combination of steel and aluminum.

COLLECTOR

A person, firm or corporation licensed to collect, dispose of and/or market recyclable and/or nonrecyclable solid waste within the Town.

COMPOSTING

Biological degradation and transformation of organic solid waste under controlled conditions designed to promote aerobic decompositions and includes vermicomposting.

CONTAINER BOARD

Corrugated paperboard used in the manufacture of shipping containers and related products.

DRUG WASTE

Any medication (pill, capsule, cream, ointment, liquid, patch), prescribed or over-the-counter, which is no longer needed or wanted.

ELECTRONIC WASTE

Any electronic or electrical device(s) that have reached the end of their useful life, and that contain substantially high amounts of toxic or harmful substances. This list includes, but is not limited to: cellular phones, rechargeable batteries, fluorescent lighting and ballast, computer motherboards, televisions, any device containing mercury, or any device which has a video display.

FEES

The Town Board shall by resolution set fees for the collection of Nonrecyclable Postconsumer Waste and Recyclables. Materials, said fees to include any administrative costs of the Town as well as the amount charged by the Collector contracted by the Town.

FOAM POLYSTYRENE PACKAGING

Packaging made primarily from foam polystyrene that satisfies one of the following criteria:

- A. Is designed for serving food or beverages;
- B. Consists of loose particles intended to fill space and cushion the article in a shipping container;
- C. Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.

FREE LIQUIDS

Liquids which readily separate from the solid portion of waste under ambient temperature and pressure.

GLASS CONTAINER

A glass bottle, jar or other packaging container used to contain a product that is the subject of a retail sale and does not include ceramic cups, dishes, light bulbs, mason jars, ovenware, plate glass, safety and window glass, heat-resistant glass such as Pyrex®, lead-based glass such as crystal, or TV tubes.

HDPE

High-density polyethylene. Plastic containers made of HDPE and regulated under Wis. Admin. Code Ch. ATCP 137 will have a triangular symbol with number "2."

LDPE

Low-density polyethylene. Plastic containers made of LDPE and regulated under Wis. Admin. Code Ch. ATCP 137 will have a triangular symbol with number "4."

MAGAZINES

Magazines and other materials printed on similar paper.

MAJOR APPLIANCE

A residential or commercial air conditioner, clothes washer, clothes dryer, dishwasher, freezer, microwave oven, oven, stove, refrigerator, furnace, boiler, dehumidifier or water heater.

MULTIPLE-FAMILY DWELLING

A property containing five or more residential units, including those which are occupied seasonally, and all residential facilities that do not meet the definition of "residential unit," on fee simple property.

NEWSPAPER

A newspaper and other materials printed on newsprint.

NONRECYCLABLE POSTCONSUMER WASTE

Solid waste for which there exists no commercially demonstrated method of resource recovery. It does not include solid waste generated in the production of goods, hazardous waste as defined in Wis. Stats. § 291.01(7), waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste as defined in Wis. Stats. § 289.01(17).

NONRESIDENTIAL FACILITIES AND PROPERTIES

Commercial, retail, industrial, institutional and governmental facilities and properties. It includes any location at which goods or services are provided or manufactured, including locations under construction, demolition or remodeling, or used for special events such as, but not limited to, fairs, festivals, port venues, conferences and exhibits.

OFFICE PAPER

High-grade printing and writing papers from offices in nonresidential facilities and properties. Printed white ledger and computer printout are examples of office paper generally accepted as high grade. This term does not include industrial process waste.

OIL-ABSORBENT MATERIALS

Materials that are used to absorb waste oil.

OIL FILTER

A filter for automotive engine oil.

OTHER RESINS or MULTIPLE RESINS

Plastic resins regulated under Wis. Admin. Code Ch. ATCP 137 and having a triangular symbol with number “7.”

PERSON

Includes any individual, corporation, limited liability company, partnership, association, local governmental unit as defined in Wis. Stats. § 66.0131(1)(a), state agency or authority or federal agency.

PETE or PET

Polyethylene terephthalate. Plastic containers made of PETE and regulated under Wis. Admin. Ch. ATCP 137 will have a triangular symbol with number “1.”

PLASTIC CONTAINER

An individual, separate, rigid plastic bottle, can, jar or carton, except for a blister pack, that is originally used to contain a product that is the subject of a retail sale. A plastic container includes those made of PETE (No. 1), HDPE (No. 2), PVC (No. 3), LDPE (No. 4), PP (No. 5), PS (No. 6), and other resins or multiple resins (No. 7).

POSTCONSUMER WASTE

Solid waste other than solid waste generated in the production of goods, hazardous waste as defined in Wis. Stats. § 291.01(7), waste from construction and demolition of structures, scrap automobiles or high-volume industrial waste as defined in Wis. Stats. § 289.01(17).

PP

Polypropylene. Plastic containers made of PP and regulated under Wis. Admin. Code Ch. ATCP 137 will have a triangular symptom with number “5.”

PS

Polystyrene. Plastic containers made of PS and regulated under Wis. Admin. Code Ch. ATCP 137 will have a triangular symptom with number “6.”

PVC

Polyvinyl chloride. Plastic containers made of PVC and regulated under Wis. Admin. Code Ch. ATCP 137 will have a triangular symbol with number “3.”

RECYCLABLE MATERIALS or RECYCLABLE SOLID WASTE

Is defined by Wis. Admin. § NR 544.03(33) and includes items that are banned from land disposal and incineration pursuant to Wis. Stats. § 287.07. These items include, but are not limited to: electronic waste, lead acid batteries, major appliances, waste oil, yard waste, waste tires, aluminum containers, corrugated paper or other container board, foam polystyrene packaging, glass containers, magazines, newspaper, office paper, plastic containers, steel containers, bimetal

containers, used oil filters, oil-absorbent materials with visible signs of free-flowing oil and electronic devices listed in Wis. Stats. § 287.07(5).

RESIDENTIAL UNIT

Each living unit in the Town of Oneida designed for permanent living quarters, including every single, two-, three- and four-family dwelling unit(s) on fee simple property.

SOLID WASTE

Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded or salvageable materials, including solid, liquid, semisolid or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solids or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Wis. Stats. § 283, or source material as defined in § 254.31(10), special nuclear material as defined in § 254.31(11), or by-product material as defined in § 254.31(1).

SOLID WASTE TREATMENT

Any method, technique or process which is designed to change the physical, chemical or biological character or composition of solid waste.

TOWN'S CONTRACTED COLLECTOR

A person, firm or corporation specifically contracted by the Town to collect, dispose of and/or market certain recyclable materials and/or postconsumer waste from residential units.

WASTE OIL

Any petroleum-derived or synthetic oil that has been used or spilled.

WASTE TIRE

A tire that is no longer suitable for its original purpose because of wear, damage or defect.

YARD WASTE

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 with intact root balls.

II-17. Storing of solid waste.

Any accumulation of solid waste on any premises in the Town is declared to be a nuisance and is prohibited. The owner is responsible for the timely removal and proper disposal of solid waste from the owner's premises. Upon failure to remove the nuisance after written notice to the owner, the Town may cause the nuisance to be removed and disposed of at the

owner's expense. The Town shall collect from the owner all costs associated with removal and disposal of the nuisance. All unpaid charges and fines will be placed on the tax roll.

II-18. Separation of recyclable materials.

- A. All persons who generate or dispose of solid waste within the Town shall separate the following recyclable materials from nonrecyclable solid waste:
- (1) Aluminum containers;
 - (2) Bimetal containers;
 - (3) Corrugated paper or other container board;
 - (4) Foam polystyrene packaging;
 - (5) Glass containers;
 - (6) Magazines (and other materials printed on similar paper);
 - (7) Newspaper (and other materials printed on similar paper);
 - (8) Office paper;
 - (9) Plastic containers;
 - (10) Steel containers;
 - (11) Electronic waste, and electronic devices listed in Wis. Stats. § 287.07(5);
 - (12) Lead-acid batteries;
 - (13) Major appliances;
 - (14) Yard waste;
 - (15) Waste tires;
 - (16) Used oil filters;
 - (17) Waste oil;
 - (18) Oil-absorbent materials with visible signs of free-flowing oil.
- B. The Town contracts with the Outagamie County Recycling and Solid Waste Department for ultimate disposal of all Town recyclable and nonrecyclable waste.

Due to varying market conditions and technological upgrades, the Outagamie County Recycling and Solid Waste Department ultimately dictates what shall be required and/or accepted and the above list may change from time to time.

II-19. Separation requirements exempted.

The separation requirements of Section II-18 do not apply to the following:

- A. Persons who send their postconsumer waste to a processing facility licensed by the Wisconsin Department of Natural Resources that recovers the materials specified in Section II-18 from solid waste in as pure a form as is technically feasible.
- B. Solid waste burned as a supplemental fuel at a facility if less than 30% of the heat input to the facility is derived from the solid waste burned as supplemental fuel.
- C. A recyclable material specified in Section II-18 for which a variance has been granted by the Department of Natural Resources under Wis. Stats. § 287.11(2m) or Wis. Admin. Code § NR 544.14.

II-20. Care of separated recyclable materials.

To the greatest extent practicable, recyclable materials separated in accordance with Section II-18 shall be clean and kept free from contaminants such as food or product residue, oil or grease, or other nonrecyclable materials, including but not limited to: household hazardous waste, medical waste, and agricultural chemical containers. Recyclable materials shall be stored in a manner that protects them from wind, rain and other inclement weather conditions. Recyclable materials, as specified in Section II-18A(1) through (10), should not be bagged prior to placement in wheeled collection cart.

II-21. Management of lead-acid batteries, major appliances, waste oil, used oil filters, oil-absorbent materials with visible free-flowing oil, electronic waste, drug waste, and yard waste.

Occupants of residential units, multiple-family dwellings and nonresidential facilities and properties shall arrange for the proper collection and disposal of lead-acid batteries, major appliances, waste oil, used oil filters, oil-absorbent materials with visible free-flowing oil and electronics with a collector at the occupant's request and expense. Yard waste may be removed by a collector at the occupant's request and expense, or composted pursuant to Section II-30. Electronic waste can be disposed of at the Outagamie County Recycling and Solid Waste Department, or at any site which has an official program to recycle electronic waste. Drug waste, as listed in Section II-22E, shall be deposited at any authorized location with designated and appropriate facilities for drug waste disposal.

II-22. Responsibilities of residential unit owners and occupants.

A. Except as otherwise directed by the Town, owners and occupants of residential units shall follow the preparation and collection of recycling materials as required by the Town.

B. All residential units shall be provided a wheeled recycling cart and a wheeled nonrecyclable postconsumer waste cart by the Town or the Town's contracted collector. Provided carts are to be maintained by the residential unit owners and occupants in a good, clean and sanitary condition and shall not be removed from the premises by the residential unit owner or occupant. These carts shall be watertight and flyproof at all times. Covers shall be kept tightly on the carts to prevent materials from blowing or spilling. All bins/carts should be primarily housed inside a building during non-pickup days. If it is impossible to house in a building, then the bins/carts must be out of sight of street. The owner shall take any reasonable steps to make sure animals are not able to disturb garbage if left outside. During winter months, the property owner must shovel out an area in which the carts/bins can be easily accessible to the disposal contractor as in summer months. If this is exceedingly difficult, the contractor may decide the route and procedures necessary to pick up carts/bins. Any litter which is strewn about the area of the bins, when placed by curb, is the responsibility of the owner or designated agent, and must be removed no later than sundown of the evening of pickup. No person shall dispose or dump nonrecyclable material in any container designed to handle or store recyclable materials. No solid waste or recyclable material shall be allowed to be disposed of in the Town which originated from outside the Town. Any item(s) which are placed outside of contractor approved cart/bin will not be picked up.

C. Properly prepared bimetal containers, container board, foam polystyrene packaging, glass containers, HDPE, LDPE, magazines, newspaper, other resins or multiple resins, PETE, plastic containers, PP, PS, PVC and aluminum cans (per Outagamie County Recycling and Solid Waste Department collection discretion) within the recycling cart shall be collected at curbside according to a schedule set by the Town. In order to prevent carts from being an obstruction to snowplows and other traveling public, carts are prohibited from being placed within the roadway. The Town will not be responsible for carts that are damaged due to being struck by Town snowplows or "snow wash" resulting from plowing activity. All carts shall be placed and removed from the collection point within 24 hours of pickup.

D. Nonrecyclable postconsumer waste contained within a nonrecyclable cart shall be collected at curbside according to a schedule set by the Town. In order to prevent carts from being an obstruction to snowplows and other traveling public, carts are prohibited from being placed within the roadway. The Town will not be responsible for carts that are damaged due to being struck by Town snowplows or "snow wash" resulting from plowing activity. All carts shall be placed and removed from the collection point within 24 hours of pickup.

E. No person shall place the following materials at the curbside collection point for collection by the Town's contracted collector unless the person has made separate arrangements for the collection at the person's own expense:

- (1) Non-separated recyclable and nonrecyclable postconsumer waste;
- (2) Hazardous waste as defined in Wis. Stats. § 291.01(7);
- (3) Paint or stain (latex-based paint cans can go in the trash, as long as contents in can are dried out);
- (4) Flammable liquid;
- (5) Explosives;
- (6) Chemicals;
- (7) Carcasses;
- (8) Home generated sharps unless they are deposited in an FDA approved sharps collection container;
- (9) Infectious waste as defined by Wis. Stat. § 287.07(7)(c)1.c, and other waste that contains or may be mixed with infectious waste;
- (10) Automotive parts or accessories;
- (11) Metal;
- (12) Yard waste;
- (13) Tires;
- (14) Major appliances;
- (15) Lead-acid batteries unless prior arrangements are made with the Town's collector;
- (16) Used oil filters;
- (17) Oil-absorbent materials with visible signs of free-flowing oil;
- (18) Waste oil unless prior arrangements are made with the Town's collector;
- (19) Electronic waste and devices listed in Wis. Stats. § 287.07(5);

- (20) Pesticides, excluding nonagricultural pesticide containers if properly cleaned, not contaminated, and if approved by the Town Board for separation and for recyclable material collection;
- (21) Asbestos;
- (22) Sludge wastes;
- (23) Waste from pollution control equipment;
- (24) Residue and debris from cleanup of chemical discharge or chemical residue and debris from any facility or operation using chemicals in any commercial, agricultural or industrial processes;
- (25) Ash waste;
- (26) Hazardous and toxic demolition and construction waste;
- (27) Septage (human or otherwise) waste;
- (28) Animal fecal waste;
- (29) Wood treated with chemical preservatives;
- (30) Contaminated recyclable material as determined by the Town Board or its contractor;
- (31) Drug waste (shall be disposed of at any authorized location with designated and appropriate facilities for drug waste disposal).

F. Owners and occupants of residential units shall be invoiced by either Collector or Town for the Fees associated with collection of Nonrecyclable Post-Consumer Waste and Recyclable Materials. The Town shall assess a thirty (\$30.00) dollar late fee for any payment not made within thirty (30) days of the invoice date. Non-payment for more than sixty (60) days will result in a sixty (\$60.00) dollar late fee. Non-payment for more than ninety (90) days will result in a ninety (\$90.00) dollar late fee. The Town reserves the right to place any unpaid Fees and late fees onto an owner's real estate tax bill as a special charge.

II-23. Responsibilities of owners or designated agents of multiple-family dwellings.

A. Responsibilities.

- (1) The owner of a multifamily dwelling shall arrange for the removal of nonrecyclable postconsumer waste and recyclable materials specified in Section II-

18A(1) through (10) from the multifamily dwelling at the owner's expense. The owner or designated agent of a multifamily dwelling shall provide adequate separate containers for the disposal of both nonrecyclable postconsumer waste and those recyclable materials specified in Section II-18A(1) through (10). A nonrecyclable postconsumer waste container and recyclable material container of at least 25 gallons each shall be provided per dwelling unit, or dumpsters may be provided using this size equivalency. Nonrecyclable postconsumer waste shall be removed and disposed of by a collector at the owner's expense at least once each week. Recyclable materials specified in Section II -18A(1) through (10) shall be removed by a collector at the owner's expense at least once every other week. To ensure compliance, the owner of a multifamily dwelling shall provide the Town with a copy of its current collection contract within five business days of a written request from the Town. The Town may at any time require the owner of a multifamily dwelling to increase container sizes or dumpster equivalency and/or frequency of collection to avoid nuisances such as fugitive debris or other aesthetic issues.

- (2) All recyclable and nonrecyclable containers shall be placed and maintained within a three-sided enclosure and enclosed on the fourth side with a gate to contain garbage, refuse, waste, recycling and other debris. The enclosure shall be a minimum of 30 feet by 10 feet, it must be at least 10 feet from any other structure, per NFPA 1 (most recent addition), and it must meet accessory structure regulations of Chapter 295, Zoning. The screening shall consist of a solid fence constructed of masonry or commercial-grade wood fencing, and shall be a minimum of six feet and a maximum of eight feet tall. This fence shall be constructed in such a manner so as to prevent paper, debris, and other refuse material from being blown through the fence. The owner of a multifamily dwelling shall be responsible for full compliance with the requirements of this article.
 - (3) The owner or designated agent may apply for a special exception from the Town regarding the minimum size of containers and/or the minimum size of the enclosure. The Town may grant a special exception if the applicant clearly shows that this article requirement creates an unnecessary hardship and granting the variance will not harm the public interest or undermine the purposes of this article.
- B. The owner or designated agent of a multifamily dwelling shall do all of the following:
- (1) Provide adequate, separate containers for the recyclable materials specified in Section II -18A(1) through (10);
 - (2) Notify tenants in writing at the time of renting or leasing the dwelling and at least semiannually thereafter about the established on-premises recycling program,

which materials are collected, and how to prepare the materials in order to meet the processing requirements and collection methods;

- (3) Provide educational materials to tenants with resources on proper disposal options for recyclable materials described in Section II -22E;
 - (4) Provide for the collection of the recyclable materials specified in Section II-18A(1) through (10), separated from the nonrecyclable postconsumer waste, and the delivery of the recyclable materials to a recycling facility; and
 - (5) Notify tenants of reasons to reduce solid waste and to promote recycling, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods, or sites, location and hours of operation, and a contact person or company, including a name, address and telephone number.
- C. The requirements specified in Subsection A do not apply to the owner or designated agent of a multifamily dwelling if the postconsumer waste generated within the dwelling is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in Section II -18 from solid waste in as pure a form as is technically feasible.

II-24. Responsibilities of owners or designated agents of nonresidential facilities and properties.

A. Responsibilities.

- (1) The owner of nonresidential facilities and properties shall arrange for the removal of solid waste and collection of separated recyclable materials specified in Section II-18A(1) through (10) from their property at their expense. The owner or designated agent of nonresidential facilities and properties shall provide adequate separate containers for the disposal of nonrecyclable postconsumer waste and recyclable materials specified in Section II-18A(1) through (10), and shall provide resource information on how and where to dispose materials specified in Section II-22E. Nonrecyclable postconsumer waste shall be removed and disposed of by a collector at the owner's expense at least once each week. Recyclable materials specified in Section II-18A(1) through (10) shall be removed by a collector at the owner's expense at least once every other week. To ensure compliance, the owner of nonresidential facilities and properties shall provide the Town with a copy of its current collection contract(s) within five business days of a written request from the Town.
- (2) All recyclable and nonrecyclable containers shall be placed and maintained within a three-sided enclosure and enclosed on the fourth side with a gate to contain garbage, refuse, waste, recycling and other debris. The enclosure shall be a minimum of 30 feet by 10 feet, it must be at least 10 feet from any other structure,

per NFPA 1 (most recent addition), and it must meet accessory structure regulations of applicable zoning codes. The screening shall consist of a solid fence constructed of masonry or commercial grade wood fencing, and shall be a minimum of six feet and a maximum of eight feet tall. This fence shall be constructed in such a manner so as to prevent paper, debris, and other refuse material from being blown through the fence.

- (3) The owner or designated agent may apply for a special exception from the Town regarding the minimum size of containers and/or the minimum size of the enclosure. The Town may grant a special exception if the applicant clearly shows that this article requirement creates an unnecessary hardship and granting the variance will not harm the public interest or undermine the purposes of this article.

B. The owner(s) or designated agent(s) of nonresidential facilities and properties shall do all of the following:

- (1) Provide adequate, separate containers for recyclable materials specified in Section II-18A(1) through (10);
- (2) Notify in writing, at least semiannually, all users, tenants and occupants of the properties about the established on-site recycling program, which materials are collected, and how to prepare the materials in order to meet the processing requirements and collection methods;
- (3) Provide educational materials to all users, tenants and occupants of the properties with resources on proper disposal options for recyclable materials described in Section II-22E;
- (4) Provide for the collection of the materials specified in Section II-18A(1) through (10), separated from the solid waste by the users, tenants and occupants, and the delivery of the materials to a recycling facility; and
- (5) Notify users, tenants and occupants of reasons to reduce and recycle, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods, or sites, location and hours of operation, and a contact person or company, including a name, address and telephone number.

C. The requirements specified in Subsection A do not apply to the owners or designated agents of nonresidential facilities and properties if the postconsumer waste generated within the facility or property is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling materials specified in Section II-18 from solid waste in as pure a form as is technically feasible.

II-25. Responsibilities of occupants of multifamily dwellings and nonresidential facilities and properties.

In addition to the responsibilities set forth in Sections II-18 and Section II-22, occupants of multifamily dwellings and nonresidential facilities and properties shall, at their expense, arrange for the proper collection and disposal of their solid waste that is not postconsumer waste, such as hazardous waste, paint, stain, flammable liquid, explosives, chemicals, carcasses, home-generated sharps, infectious waste, automotive parts or accessories, etc. This obligation does not relieve the owner of said premises from liability under Section II-17 for the accumulation of solid waste on the owner's premises. The owner is responsible for the timely removal and proper disposal if the occupant fails to do so. The Town shall collect from the owner all costs associated with removal and disposal of the nuisance. All unpaid charges and fines will be placed on the tax roll. The owner's recourse, if any, will be against the occupant.

II-26. Prohibitions on disposal of recyclable materials separated for recycling.

No person may dispose of any recyclable materials, as defined in Section II-16, in a solid waste disposal facility.

II-27. Dumping garbage, refuse and waste.

A. No person may deposit, throw, discard, place or abandon any solid waste upon any street, court, lane, alley, business square, public enclosure, vacant lot, house yard, body of water, or any place, except in a container intended for that purpose. No person shall disturb the contents of any recyclable or nonrecyclable waste container. No person shall remove any item from recyclable or nonrecyclable carts or other waste containers located on private premises or in the public right-of-way adjacent without the consent of the occupant of the premises.

B. No person shall deposit or leave any recyclable materials or solid waste in any garbage container belonging to another person without first securing permission to use such container for disposal purposes.

C. Recyclable and nonrecyclable containers placed at public waste sites, public parks and other public areas within the Town are intended to be used for the disposal of recyclable and nonrecyclable postconsumer waste generated at, and associated with, the use of the public facility being served by those containers. No person shall deposit or leave any recyclable or nonrecyclable postconsumer waste at any public wayside or park within the Town unless the recyclable or nonrecyclable postconsumer waste was generated upon the premises being served by that container and in connection with the use of the public facility.

II-28. Disposal of building wastes.

All solid waste resulting from the remodeling, construction or reconstruction of a building or structure, roadway or sidewalk shall be disposed of by the owner at the owner's expense.

II-29. Right to reject materials.

The Town's contracted collector may reject any recyclable material or nonrecyclable postconsumer waste that is not prepared according to this article or other policies adopted by the Town.

II-30. Residential composting.

A. Composting in all residential zoning districts shall be conducted within an enclosed container not to exceed five feet by five feet by five feet for lots less than 40,000 square feet and two five-foot-by-five-foot-by-five-foot containers for lots 40,000 square feet to 120,000 square feet. Containers shall be of a durable material including, but not limited to, rot-resistant wood or a commercially purchased composting unit which will provide for adequate aeration. Containers shall be constructed and maintained in a structurally sound manner.

B. The compost container(s) shall be located in the rear yard no closer than 10 feet to any rear or side property line nor closer than 20 feet to any habitable building, other than the resident's(s') own home.

C. Only grass clippings, leaves, weeds that have not gone to seed, nondiseased plants, trimmings less than 1/4 inch in diameter, straw, sawdust, wood ashes, fruit or vegetable scraps, coffee grounds, egg shells, paper, and commercially available compost ingredients may be placed in the compost container(s). Meat, bones, fat oils, grease, dairy products, feces, plastics or synthetic fibers shall not be placed in the compost container(s).

D. Compost materials shall be layered, aerated, moistened, turned, managed and covered during inclement weather to promote effective decomposition of the materials in a safe, secure and sanitary manner.

E. All compost containers and/or compost materials not in compliance with this section shall be declared a public nuisance and are subject to enforcement and abatement as provided in Section II-31 of this article.

II-31. Enforcement; violations and penalties.

A. For the purpose of ascertaining compliance with the provisions of this article, any authorized officer, employee or representative of the Town Department may inspect recyclable materials separated for recycling, postconsumer waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection areas of multiple-family dwellings and nonresidential facilities and properties, and any records relating to

recycling activities, which shall be kept confidential when necessary to protect proprietary information. No person may refuse access to any authorized officer or employee of the Town who requests access for purposes of inspection. No person may obstruct, hamper or interfere with such an inspection. No part of this article shall inhibit the ability of law enforcement to collect any material that may have evidentiary value.

B. Any person who violates a provision of this article may be issued a citation. The issuance of a citation shall not preclude proceeding under any other ordinance of 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 section.

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

(1) Any person who violates a provision of this article, except Section II-26, may be required to forfeit not less than \$10 nor more than \$1,000 for each violation;

(2) Any person who violates Section II-26 may be required to forfeit \$50 for a first violation, \$200 for a second violation, and not more than \$2,000 for a third or subsequent violation;

(3) The forfeiture and penalties provided in this section shall not be construed as prohibiting other methods of enforcing this article, including, but not limited to, penalties provided for in the Town Fee and Forfeiture Schedule, injunctions and other forms of relief available to the Town.

Article III. Adoption

III-1 Adoption

This Ordinance shall become effective upon passage by the Town Board, and publication or posting as required by law.

Adopted: _____

TOWN OF ONEIDA

By: _____
Scott Schaumberg, Town Chairman

Attest: _____
Jennifer Andersen, Town Clerk