

Chapter 4
Town of Decatur
AN ORDINANCE REGULATING
RECYCLABLE MATERIAL AND WASTE
STORAGE, TREATMENT AND DISPOSAL

THE TOWN BOARD OF THE TOWN OF DECATUR, GREEN
COUNTY, WISCONSIN, DOES ORDAIN AS FOLLOWS:

SECTION I. Purpose

The purpose of this ordinance is to regulate the processing, storage, treatment, dumping or disposal of recyclable material, waste, garbage, refuse, fly ash and sludge by individuals, corporations, municipalities, counties and other entities within the Town of Decatur, Green County, Wisconsin. Because of the possible public nuisances caused by or the possible danger to the health, safety and welfare of the public caused by such processing storage, treatment, dumping or disposal within the Town of Decatur, these uses and activities shall only be permitted under the terms and conditions herein set forth, and such terms and conditions shall constitute pre-existing local approvals as authorized by law. This ordinance shall apply to the uses and activities at any existing recyclable material facility or to any existing storage, treatment, dump or disposal site herein located in the Town of Decatur, to the uses and activities at any such facility or site herein after located and to any expansion of any recyclable material facility or the expansion of any existing storage, treatment, dump or disposal site which may exist in the Town of Decatur on the date of the adoption of this ordinance or thereafter.

SECTION II. Definitions

In this ordinance the following words and phrases have the following designated meaning:

A. "After closure" is the time after permanent closure of the facility or site, as determined by the Town Board, until forty (40) years after such closure.

B. "Dumping or Disposal", or "Dumping or Disposal Operations" includes, but is not limited to, unloading, throwing away, discarding, emptying, abandoning, discharging, burning, or burying of any recyclable material waste, garbage, refuse, fly ash or sludge on, into or under any property or lands, whether publicly or privately owned, within the Town of Decatur. This term does not include any dumping or disposal operations at facilities or sites not covered under this ordinance as a dump or disposal site.

C. "Waste" is garbage, fly ash, sludge, refuse and all other discarded or salvageable materials, including waste materials resulting from industrial, commercial and agricultural operations and from domestic use and public service activities. Waste does not include recyclable material except contaminated recyclable material. Waste does not include hazardous

waste.

D. "Garbage" is discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.

E. "Refuse" is combustible and non-combustible discarded material including, but not limited to, trash, rubbish, paper, wood, metal, glass, plastic, rubber, cloth, ashes, litter and street rubbish, industrial waste, dead animals, mine tailings, gravel pit and quarry spoils, toxic and hazardous wastes, and material and debris resulting from construction or demolition.

F. "Sludge" is any solid, semi-solid, or liquid residue generated from municipal, commercial, or industrial waste water treatment plant, water supply treatment plant, or air pollution control facility.

G. "Municipality" is any town, village, city, or county as well as any utility district, sanitary district, public inland lake protection and rehabilitation district or metropolitan sewage district.

H. "Fly Ash" is the powder mineral residue removed from the non-combustible portion of fuel that escapes with the exhaust gas and is collected by air pollution control equipment.

I. "Discharge" means, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying or dumping.

J. "Disposal" means, but is not limited to, the discharge, deposit, injection, dumping or placing of any recyclable material, waste, garbage, refuse, fly ash or sludge into or on any land or water in any manner within the Town of Decatur which may permit the recyclable material, waste, garbage, refuse, fly ash or sludge or any constituent thereof to be admitted into the air, to be discharged into any waters of the state or otherwise to enter the environment. This term does not include transportation, storage or treatment of waste, garbage, refuse, fly ash or sludge.

K. "Hazardous waste" is any waste identified by the Wisconsin Department of Natural Resources as hazardous.

L. "Leachate" is water or other liquid which has been contaminated by dissolved or suspended materials due to contact with waste or gases therefrom.

M. "Open burning" is combustion of recyclable material or waste where the products of combustion are admitted directly to the ambient air without passing through a stack or a chimney. Open burning does not include the combustion occurring at a properly operated air curtain distracter or incinerator.

N. "Operations" is the time after the permit issuance when the construction, operation and maintenance of the facility or site occurs until permanent closure of the facility on site as determined by the Town Board.

O. "Person" includes an individual, a corporation, a municipality or other legal entity, a partnership, and any incorporated association.

P. "Dump or disposal site" is the facility for waste treatment, waste storage, or waste disposal, and includes commercial, industrial, municipal, state and federal establishments or operations such as, without limitation because of enumeration, sanitary landfills, dumps, land disposal sites, demolition sites, and solid waste disposal facilities. This term includes the land where the facility is located. This term does not include a facility for hazardous waste storage, treatment or disposal. This term does not include a facility for the processing of scrap iron, steel or non-ferrous metal using large machines to process a principal product of scrap metal for the sale or use for re-melting purposes. This term does not include a facility which uses large machines to sort, compact, or bail clean waste paper, fibers or plastic, not mixed with other waste for sale or for use for recycling purposes. This term does not include any auto junkyard or scrap metal salvage yard.

Q. "Recyclable material" is material in waste for which there exists a commercially demonstrated processing or manufacturing technology which uses the material as a raw material.

R. "Storage" is the holding of recyclable material and waste and for a temporary period at the end of which the waste is to be treated or disposed. Temporary period shall not exceed six (6) consecutive months.

S. "Storage site" is the site for holding waste or recyclable material in storage. This shall include a transfer station used for holding waste or recyclable material for a temporary period.

T. "Treatment" is a method, technique or process which is designed to change the physical, chemical or biological character or composition of waste or recyclable material. Treatment includes incineration.

U. "Treatment site" is the site for holding and processing of waste or recyclable material for treatment. This may include an incinerator.

V. "Dumper/Disposer" means any individual, corporation, municipality or county, who or which performs the act of disposal, storage or treatment of any waste or recyclable material in the Town of Decatur.

SECTION III. Permit Required

A. Except as expressly permitted in Section IV below, no individual, corporation, municipality or county shall dump, dispose, store or treat recyclable material

and waste, including garbage, refuse, fly ash or sludge within the Town of Decatur unless a permit to engage in such dumping, disposal, storage or treatment is first obtained from the Town of Decatur under the conditions prescribed herein.

B. Except as expressly permitted in Section IV Below, no individual, corporation, municipality or county shall maintain or operate a storage, treatment or disposal site or any place for the disposal, storage or treatment of recyclable material and waste, including garbage, refuse, fly ash or sludge within the Town of Decatur except under the conditions prescribed herein, and no individual, corporation municipality, or county shall maintain, operate, or permit the maintenance or operation of any such place in violation of any provisions of this ordinance. This regulation shall include other municipalities, including Green County.

SECTION IV. Exceptions

The following shall not be deemed to come within the scope or meaning of this ordinance:

A. A facility or site used for collection of recyclable material or dumping of disposal of waste, including garbage or refuse from a single family or household, a member of which is the owner, occupant or lessee of the property, provided, however, that such waste, garbage, refuse or recyclable material is placed in suitable containers or stored in such other way as not to cause a public or private nuisance.

B. The use of sanitary privies and what are commonly known as seepage beds or septic tanks, which conform to applicable ordinances in the Town of Decatur, or the discharge of human waste products into any public sewage systems located within the Town of Decatur.

C. A farm on which only animal waste resulting from the operation of the farm are disposed.

D. Any dumping or disposal operation, any storage, treatment, dump or disposal site or any recyclable material facility directly under the direction and control of the Town of Decatur.

E. Any existing facility or site with current use or activities that are subject to the Pre-existing local ordinance noted as 84-12-1. This ordinance shall remain in effect for the purpose of regulating these existing facilities site while they are operational. In addition, any expansion of such facility or site and its current uses and activities shall be subject to the preexisting ordinance. Any new uses or activities after the date of adoption of this ordinance at the facility or site shall be subject to this ordinance.

SECTION V. General Regulations

Individuals, corporation, municipalities, or counties, who are permitted to dump or dispose of recyclable material, waste, garbage, refuse, fly ash or sludge within the Town of Decatur, to engage in any disposal operations or to operate any storage, treatment, dump or disposal site or to operate any recyclable material facility within the Town of Decatur, shall be subject to the following regulations:

A. The dumping or disposal operation must be conducted in such a way as to not constitute a public nuisance and any recyclable material facility or storage, treatment or disposal site must be operated maintained, and closed to avoid causing any public nuisance in the Town

of Decatur.

B. The dumping or disposal operations and any recyclable material facility or any storage, treatment or disposal site shall be permitted only in the agriculturally or industrially zoned areas as set forth in the official zoning map of Green County, Wisconsin, or the Town of Decatur.

C. Any dumping or disposal operations and any recyclable material facility or any storage, treatment, dump or disposal site within the Town of Decatur may be open for business during operations only between the hours of 7:30 a.m., and 4:30 p.m. from Monday through Saturday and shall be closed for business for all other hours and all other days including legal holidays.

D. The dumper/disposer shall maintain an attendant at the recyclable facility or at the storage, treatment, dump or disposal site at all times when opened to the public during operations and shall provide an "on call" attendant during times and dates when the dumping, disposal, storage or treatment operation will be closed temporarily or after closure. The dumper/disposer shall inform the Town Clerk in writing of the names, telephone numbers and addresses of all attendants and the name, telephone number and address of the responsible agent for the dumper/disposer and shall further notify the Town Clerk in writing of any changes therein within forty-eight (48) hours of any such change.

E. The dumper/disposer shall not extend the maximum height during operations or after closure of any dump or disposal site higher than the height required to comply with the slope requirements of the Wisconsin Department of Natural Resources. All holes or ponds shall be filled during operations and after closure by the dumper/disposer to existing topography, except for active fill areas.

F. The dumper/disposer shall not construct, operate or maintain the recyclable material facility or any storage, treatment, dump or disposal site, including the active fill area of a dump or disposal operation closer than 100 feet from adjacent property lines.

G. The dumper/disposer shall construct and maintain all-line fences which shall be at least 5 (five) feet in height, during operations and after closure, around the perimeter of any recyclable material facility or of any dump, disposal, storage or treatment site for security and safety.

H. The dumper/disposer shall build and maintain, during operations and after closure, mobile chain-link fences at least 8 feet in height around the recyclable material facility or the storage, treatment, dump or disposal site and the active fill area in the dump or disposal site to prevent wind blown paper and waste, garbage or refuse from leaving the active fill area.

I. The dumper/disposer shall post no signs, during operations or after closure, in the Town of Decatur noting the existence of the recyclable material facility or the dump, disposal, treatment or storage site or its location except one (1) sign at the entrance to the recyclable material facility or the storage, treatment, dump or disposal site. The sign shall be built and posted prior to the commencement of the operation of the recyclable material facility or the

storage, treatment, dump or disposal site and shall be maintained until closure. the sign shall contain in large letters "NO HAZARDOUS WASTE, FLY ASH, OR SLUDGE ALLOWED".

J. The dumper/disposer shall construct and maintain, during operations and after closure, all roads within the recyclable material facility or the storage, treatment, dump or disposal site with an all weather blacktop surface which shall be maintained dust free.

K. The dumper/disposer shall keep, during operations and after closure, all gates to the recyclable material facility or the storage, treatment, dump or disposal site closed and locked except during business hours.

L. The dumper/disposer shall, during operations and after closure, cut weeds and grass within the recyclable material facility or the storage, treatment, dump or disposal site in accordance with the requirements of the weed ordinances of Green County and/or the Town of Decatur.

M. The dumper/disposer shall maintain, during operations and after closure, at the dump or disposal site all topsoil removed during construction, operation and maintenance of the dumping or disposal operation.

N. The dumper/disposer shall establish, during operations and after closure, berms around the active fill area within any dump or disposal site and those berms shall be at least 8 feet above the active fill area at all times.

O. The dumper/disposer shall not, during operations or after closure, cause, suffer, or permit surface water run-off or erosion onto adjacent landowners from the recyclable material facility or the storage, treatment, dump or disposal site and upon notice from an adjacent landowner or the Town Board to the dumper/disposer of any surface water run-off or erosion, the dumper/disposer shall within seven (7) days abate the run-off or erosion. No standing water shall be allowed, during operations or after closure, at the recyclable material facility or the storage, treatment, dump or disposal site.

P. The dumper/disposer shall, during operations, at the dump or disposal site on at least a daily basis, compact all waste, garbage and refuse and cover the waste, garbage, fly ash, sludge and refuse with at least six (6) inches of soil unless waived by the Town Board. The dumper/disposer shall immediately cover with at least twelve (12) inches of soil all putrescible materials. The dumper/disposer shall insure proper compaction by baling the waste, garbage and refuse and/or a minimum of five passes by compacting equipment over each layer of waste, garbage and refuse.

Q. The dumper/disposer shall keep and maintain, during operations and after closure, adequate fire fighting equipment at the recyclable material facility or at the storage, treatment, dump or disposal site. The dumper/disposer shall not allow open burning, during operations and after closure at the recyclable material facility, at the storage, treatment, dump or disposal site.

R. The dumper/disposer shall, during operations and after closure, control and exterminate the insects and rodents at the recyclable material facility or at the storage,

treatment, dump or disposal site.

S. The dumper/disposer shall provide, during operations and after closure, adequate security personnel for the recyclable material facility or for the storage, treatment, dump or disposal site and shall provide automatic security lights within the recyclable material facility or within the storage, treatment, dump or disposal site for use during hours of darkness.

T. The dumper/disposer shall clean and remove, during operations and after closure, at the dump or disposal site all leachate collecting systems as needed so as to prevent the overflow, spilling, leaking and/or seepage of leachate onto and/or into the surrounding soils. Leachate removed from any leachate collecting system shall be tested immediately following each cleaning and the dumper/disposer shall file the test results with the Town Clerk within three (3) days after receipt of the results.

U. The dumper/disposer shall implement, during operations, at any storage, treatment, dump or disposal site appropriate recyclable material separation and baling to reduce the amount and volume of waste, garbage or refuse disposed in any dump or disposal site. A recyclable material facility or a storage or treatment site, during operations of the dump or disposal site, may be located adjacent to the dump or disposal site if licensed by the DNR and the Town of Decatur.

V. The dumper/disposer at a dump or disposal site shall attempt before operations to attain from the Wisconsin Department of Natural Resources a license to allow for separate storage and treatment of recycled materials adjacent to the dump or disposal site. These materials shall be stored not to exceed the storage requirements established by the Department of Natural Resources or the Town Board, whichever are more stringent. Any recyclable material stored at the dump or disposal site shall be stored to prevent harborage.

W. The dumper/disposer shall, before operations and during operations, obtain an operating license for the use of incinerators, air curtain destructors and/or compactors from the Wisconsin Department of Natural Resources under Chapter NR 180 of the Wisconsin Administrative Code or its successors, prior to application for a permit under this ordinance. Any dumper/disposer exempt under the provisions of Chapter NR 180 of the Wisconsin Administrative code, or its successors, shall gain approval from the Town Board for use of these devices at the time of application.

X. The dumper/disposer as well as all individuals, corporations, municipalities, counties and other entities transporting recyclable material or waste to and from the recyclable material facility or the storage, treatment, dump or disposal site, during operations, shall be required to use only the routes of travel as authorized by the Town Board of the Town of Decatur.

Y. No individual, corporation, municipality, county or other entity transporting recyclable material or waste to or from a recyclable material facility or any storage, treatment, dump or disposal site, during operations, within the Town of Decatur shall travel to or from the site before 7:00 a.m. and after 5:00 p.m. on authorized days of operation. The Town Board may

establish and limit the time and days and number of vehicles entering and exiting the recyclable material facility or the storage, treatment, dump or disposal site.

Z. The dumper/disposer shall, during operations, police, on a daily basis, the designated or alternate roadways and other right-of-ways to the recyclable material facility or the storage, treatment, dump or disposal site and remove any litter, waste, garbage, mud or debris on the designated roadways, alternate roadways, and right-of-ways.

AA. The dumper/disposer shall during operations and after closure, be responsible for removal and any damages resulting from any and all discharges of any recyclable material, waste, garbage, refuse, fly ash or sludge on the designated or alternate roadways and right-of-ways and public or private lands within the Town of Decatur, due to the transportation of recyclable material or waste to and from the recyclable material facility or the storage, treatment, dump or disposal site. The dumper/disposer shall immediately notify the Town Clerk and the Wisconsin Department of Natural Resources as to any discharges. Discharges shall be removed within forty-eight (48) hours of notice of such discharge.

BB. The dumper/disposer shall, during operations and after closure, be required to maintain and repair, to town standards, those portions of the designated or alternate roadways and right-of-ways under town jurisdiction which are used by vehicles to transport to and from the recyclable material facility or the storage, treatment, dump or disposal site.

CC. The dumper/disposer shall comply with all town regulations and orders regarding all applicable roadways under town jurisdiction for all special or seasonal weight limits, routes for designated or alternate roadways, special traffic regulations, speed regulations, or road-closure regulations.

DD. The recycling, processing, storage, treatment, dumping or disposal of any recyclable material at a recyclable material facility or any waste at any storage, treatment, dump or disposal site must be conducted in such a way that dust, dirt, debris or other materials or substances will not be carried by wind across the boundary of the parcel of land being used for the recyclable material facility or dump or disposal site.

EE. The dumper/disposer shall police, on a daily basis, the fence lines at the recyclable material facility or at the storage, treatment, dump or disposal site and shall remove litter, waste, recyclable material, garbage, mud or debris and provide maintenance offences and gates at the recyclable material facility or the storage, treatment, dump or disposal site.

FF. The dumper/disposer shall, at least weekly and within a one-half (1/2) mile radius of the recyclable material facility or the storage, treatment, dump or disposal site, collect and remove all litter, waste, garbage or debris reasonably attributable to the processing, storage, treatment, dumping or disposal of recyclable waste by the dumper/disposer.

GG. No hazardous waste, regardless of quantity at any time, shall be accepted, received, stored, treated, disposed or transported to any recyclable material facility or any storage, treatment, dump or disposal site within the Town of Decatur.

HH. The dumper/disposer shall not accept at any time, receive, recycle, process, store, treat or dispose of any recyclable material waste, garbage, fly ash, sludge or refuse at the dump or disposal site from any other dump or disposal site. This shall include waste, including garbage or refuse received from a storage or treatment site and any contaminated recyclable material received from a recyclable material facility or from a storage, treatment, dump or disposal site.

II. The dumper/disposer shall not accept at any time, receive, store, treat or dispose of any ash or sludge at any recyclable material facility or any storage, treatment, dump or disposal site without written Town Board approval.

JJ. The dumper/disposer shall provide, during operations, to the Town Clerk a list of the names, addresses and phone numbers of all authorized transporters authorized to transport to the recyclable material facility or to the storage, treatment, dump or disposal site. No person shall transport, dispose, store or treat recyclable material or waste including garbage, sludge, fly ash or refuse at the storage, treatment, dump or disposal site unless authorized by permit issued by the Town Board and listed with the Town Clerk.

KK. The dumper/disposer shall require during operations that all persons, corporations, municipalities, or counties transporting recyclable material and waste, including garbage, fly ash, sludge or refuse to and from any recyclable material facility or any storage, treatment, dump or disposal site, prior to storing, treating or disposing of the recyclable material and waste, including garbage, fly ash, sludge or refuse in the recyclable material facility or the storage, treatment, dump or disposal site, to sign a form noting the following: (1) Source of recyclable material or waste; (2) type of recyclable material or waste; (3) amount of recyclable material or waste; (4) date of storage, treatment, disposal at recyclable material facility or the storage, treatment, dump or disposal site; (5) name and address of transporter; (6) name of driver; and (7) signature of driver. In addition, the person, corporation, municipality, county or other entity transporting recyclable material or waste to the recyclable material facility or the storage, treatment, dump or disposal site shall sign on the same form that they understand that they shall not transport to and from, store, treat, or dispose or permit the transportation to and from, storage, treatment, or disposal of any hazardous waste, fly ash, or sludge in the recyclable material facility or the storage, treatment, dump or disposal site and should they transport to and from, store, treat, dispose or permit the transportation to and from, storage, treatment, or disposal of any hazardous waste, fly ash, or sludge in the recyclable material facility or the storage, treatment dump or disposal site, without written approval of the Town Board, they subject themselves to possible forfeiture. The Town Board hereby reserves the right to disallow persons, corporations, municipalities, counties or other entity the right to transport, process, store, treat or dispose at the recyclable material facility or the storage, treatment, dump or disposal site should they violate these provisions.

LL. The dumper/disposer, during operations and after closure, shall inform the Town Clerk orally and in writing immediately of any hazardous waste or any suspected hazardous waste that has been accepted, received, stored, treated, or disposed at the recyclable material facility or at the storage, treatment, dump or disposal site.

MM. The dumper/disposer shall not, at any time, dispose, store or treat within the Town

of Decatur any recyclable material, leachate, residue, waste or hazardous waste which has been removed from any dump or disposal site at any location within or outside the Town of Decatur nor shall the dumper/disposer at any time accept, receive, store, process, treat or dispose at any recyclable material facility or any storage, treatment, dump or disposal site any leachate, residue, waste or hazardous waste from any other dump or disposal site within or outside the Town of Decatur. This provision may be waived in writing by the Town Board.

NN. The dumper/disposer shall, during operations, notify the Town Clerk orally and in writing immediately of any temporary, emergency or permanent closing of the recyclable material facility or the storage, treatment, dump or disposal site by the dumper/disposer or by any government order and the reasons for the closing.

OO. The dumper/disposer shall, during operations, notify the Town Clerk in writing at least 120 days prior to the permanent closure by the dumper/disposer of the recyclable material facility or the storage, treatment, dump or disposal site and dumper/disposer shall completely comply with the provisions of the Wisconsin Administrative Code or its successor as to closure and long term care of any dump or disposal site. Copies of all closure plans shall be filed with the Town Clerk in advance of the commencement of steps to close any dump or disposal site.

PP. The dumper/disposer shall notify the Town Clerk in writing prior to the transfer and change of ownership, possession or operation of any recyclable material facility or any storage, treatment, dump or disposal site describing the reasons for the transfer or change, the names, addresses, and telephone numbers of the prospective parties receiving ownership, possession or operation and the dates of transfer or change. Upon transfer or change of ownership, possession or operation, the current permit shall be void and a new application for permit shall be required to be issued prior to continued operation of the recyclable material facility or of the storage, treatment, dump or disposal site.

QQ. All dumpers/disposers shall, during operations and after closure, establish ground water monitoring wells within any dump or disposal site not to be less than six (6) in number. These wells shall be tested on a quarterly basis. The results of these tests shall be filed with the Town Clerk within three (3) days after receipt of the results by the dumper/disposer. If these test results do not meet primary and secondary drinking standards, written notice shall be immediately forwarded by the dumper/disposer to all well owners within a two (2) mile radius of the perimeter of the dump or disposal site informing them of the results and requesting permission to test their wells within forty-eight (48) hours. With permission of the owners, the dumper/disposer shall test these wells immediately and file the results with the Town Clerk within three (3) days after receipt of the results by the dumper/disposer.

The dumper/disposer, with permission of owners, shall test, at its own expense, and prior to operation of the dump or disposal site and on a quarterly basis thereafter, until twenty years after closure, all active wells within a one (1) mile distance of the outer perimeters of the dump or disposal site. Water quality shall be tested by an independent laboratory selected by the Town board of the Town of Decatur. Test materials shall be furnished by the dumper/disposer who shall

be responsible for receiving samples from well owners and providing results to well owners and the Town Clerk. The test parameters are field ph, field conductivity, COD, dissolved iron, and chloride. If any of these test results do not meet primary and secondary drinking standards, written notice shall be immediately forwarded by the dumper/disposer to all well owners within a two (2) mile radius of the perimeter of the dump or disposal site informing them of the results and requesting permission to test their wells within forty-eight (48) hours. With permission of the owners, the dumper/disposer shall test these wells immediately and file the results with the Town Clerk within three (3) days after receipt of the results by the dumper/disposer.

If any well during operations and after closure within a two (2) mile radius of the perimeter of the dump or disposal site shall fail because of contamination, pollution, unfitness for human consumption, a recommendation not to be consumed by the Wisconsin Department of Natural Resources or has been unapproved by any state agency, it shall be presumed that the failure of the well resulted from the dumping or disposal operation and the dumper/disposer upon notice by the Town Board shall be responsible within twenty-four (24) hours to provide to the failed well owner an alternative and adequate source of water for domestic, commercial, and agricultural consumption. All dumpers/disposers shall within thirty (30) days after notice, repair or replace, with permission of owner, the failed well. Moreover, all dumpers/disposers shall assume all of the responsibilities of the Town of Decatur under Sector 281. 75 and 281. 77 Wis. Stats. (1995-1996), or their successor provisions, for any damages to any water supply at the dump or disposal site. All dumpers/disposers shall be responsible, if possible, to determine the cause or causes of the failure of the well or wells. If the failure was caused by any other source other than the transportation to and from, construction, operation, maintenance or closure of the dump or disposal site, the dumpers/disposers may seek reimbursement of its costs and expenses incurred under this provision from the individual well owner.

RR. All dumpers/disposers shall establish and maintain, prior to operation, during operation and after closure of the dump or disposal site, an air quality station, designed to measure the ambient air quality at the site to insure conformity with Section 285.21 through 285.29 of the Wis. Stats. (1995-1996) or their successor provisions, and the regulations promulgated by the Wisconsin Department of Natural Resources. Prior to operation, a test shall be taken of air quality with a copy of the results of the tests filed with the Town Clerk within three (3) days after receipt of the results by the dumper/disposer. Thereafter, on an annual basis, air quality monitoring shall be performed until twenty (20) years after closure with the cost of the tests to be paid by the dumper/disposer. The results of the tests shall be filed with the Town Clerk within three (3) days after receipt of the results by the dumper/disposed.

All dumpers/disposers shall not, during operations and after closure, at any dump or disposal site cause, suffer, allow or permit emissions into the ambient air of any substance or combination of substances in quantities such that objectionable odor results. Preventive measures satisfactory to the Wisconsin Department of Natural Resources and the Town Board of the Town of Decatur must be taken to abate or control such emissions. An odor shall be deemed objectionable at the dump or disposal site when 50% of the individuals residing within a two (2) mile radius of the perimeter of the dump or disposal site claim the odors to be objectionable through a verified petition to the odorous materials. Upon failure of the dumper/disposer to remove or dispose of all odorous materials within two (2) days after receipt of the petition, the Town Board of the Town of Decatur may close the dump or disposal site

until odors are abated or controlled. The Town Board shall solely determine when and if odors have been abated or controlled. Any persons controlling any storage or treatment sites shall limit or negate any odors emitting from the site.

SS. Prior to the operation of a dump or disposal site, the dumper/disposer shall install and maintain, with permission of the owners, within one (1) mile of the perimeters of the dump or disposal site, leachate monitoring wells, lysimeters, moisture probes, automatic leachate systems with alarms, automatic gas detection systems with alarms or any similar devices requested by the Town Board of the Town of Decatur to detect the affects of leachate on the ground water. The dumper/disposer shall pay for the cost for installation and testing and shall file test results with the Town Clerk of the Town of Decatur within three (3) days after receipt of results by the dumper/disposer. Testing shall be directed by the Town Board and shall continue for twenty (20) years after closure of the dump or disposal site. Any changes in the groundwater quality shall immediately be noticed by the dumper/disposer to the Town Clerk of the Town of Decatur and the affected owners of real property.

TT. From the construction date to during operations and then until after closure of the recyclable material facility or of the storage, treatment, dump or disposal site, the dumper/disposer shall file with the Town Clerk of the Town of Decatur a sworn, typed monthly and yearly report as a public record on forms provided by the Town, due ten (10) days after the end of each month, and thirty (30) days after the end of the calendar year, respectfully, providing the following information, or copies of the following documents:

- (1) The name of the owner of the recyclable material facility or the storage, treatment, dump or disposal site.
- (2) The names, addresses, and positions of responsibility of the persons employed by the dumper/disposer at the recyclable material facility or the storage, treatment, dump or disposal site and the names, addresses and positions of responsibility of any independent contractor employed at the recyclable material facility or the storage, treatment, dump or disposal site.
- (3) The names, addresses, and telephone numbers of the person or persons responsible for the daily operation, reports and emergency response at the recyclable material facility or the storage, treatment, dump or disposal site.
- (4) The amount of recyclable material or waste in gross tonnage, type of waste, source of waste processed, stored, treated or disposed at the recyclable material facility or at the storage, treatment, dump or disposal site, and the names and addresses of the persons transporting waste to and from the recyclable material facility or the storage, treatment, dump or disposal site and copies of the forms required under paragraph KK above.

- (5) Copies of all reports and correspondence submitted or to be submitted to the Wisconsin Department of Natural Resources regarding the recyclable material facility or the storage, treatment, dump or disposal site.
- (6) Copies of all reports, legal documents, citations, court documents, and judgments received by the dumper/disposer regarding the recyclable material facility or the storage, treatment, dump or disposal site from the Wisconsin Department of Natural Resources or any other regulatory, law enforcement or judicial authority of this state or the United States.
- (7) Copies of all engineering and consulting reports received by the dumper/disposer from its engineers and consultants regarding the recyclable material facility or the storage, treatment, dump or disposal site.
- (8) The names, addresses, and telephone numbers along with a copy of any written contract, for the parties that will receive any leachate, residue or other waste material removed from the recyclable material facility or the storage, treatment, dump or disposal site.
- (9) The amounts of waste in gross tonnage, type of waste, and source of waste and any revenue received from any recycled material received from any recyclable material facility or at any storage, treatment, dump or disposal site.
- (10) The times, dates and persons involved in any accidents at the recyclable material facility or at the storage, treatment, dump or disposal site and the type of accident.
- (11) The test results, if applicable, of well, ground water, gas leachate, and air quality monitoring at the recyclable material facility or at the storage, treatment, dump or disposal site and in the surrounding area, with the dates tested, the location of testing, the names and addresses of the persons providing the samples and the names and addresses of the persons providing the testing.
- (12) The names of the persons, their addresses and a copy of any written complaint or compliment received by the dumper/disposer regarding the transportation to and from, operation and maintenance of the recyclable material facility or of the storage, treatment, dump or disposal site.

Each report shall be accompanied by the following sworn statement signed by an authorized representative of the dumper/disposer:

"That the undersigned, is a dumper/disposer or agent of a dumper/disposer of a recyclable material facility or of a storage, treatment, dump or disposal site located in the Town of Decatur, Green County, Wisconsin, which site is commonly known as _____

That pursuant to the ordinance of the Town of Decatur, the undersigned, as the dumper/disposer or as the agent of the dumper/disposer is required by ordinance to provide certain records, reports, documents, and information to the Town Board of the Town of Decatur.

That the undersigned, has provided those written records, reports, documents and information to the Town Board of the Town of Decatur.

That to the best of the knowledge of the undersigned, after consultation with its employees, transporters, independent contractors, engineers, consultants, attorneys and accountants, the written records, reports, documents and information provided herein to the Town of Decatur is accurate, complete and truthful.

That the undersigned understands these records, reports, documents and information are necessary for the Town of Decatur to monitor the recyclable material facility or the storage, treatment, dumping or disposal operation.

That the undersigned fully understands that the undersigned is under oath and that the undersigned is subject under Section 946.32 Wis. Stats. (1995-1996) and Section 943.39 Wis. Stats. (1995-96) to possible criminal penalties for false swearing and fraudulent writings should these records, reports, documents and information be false, inaccurate or incomplete.

Dated this _____ day of _____, _____

Signed: _____

Title: _____

Subscribed and sworn on this _____ Day of _____, _____

County of _____ -

State of Wisconsin

My Commission: _____ "

UU. Should injury or damage to any person, during operations and after closure, occur or any public nuisance occur within or in connection with any recyclable material facility or any storage, treatment, dump or disposal site within the Town of Decatur, such injury or damage shall be legally presumed by the Town of Decatur to have been proximately caused by the dumper/disposer operating such recyclable material facility or storage, treatment, dump or disposal site.

VV. The dumper/disposer shall, during operations and after closure, be liable to the Town of Decatur for any additional liability insurance expenses made reasonably necessary by the location of the dumper/disposer's recyclable material facility or the storage, treatment, dump or disposal site within the Town of Decatur.

WW. The dumper/disposer shall, during operations and after closure, furnish the Town of Decatur with an environmental impairment insurance policy covering the dumper/disposer's recyclable material facility or storage, treatment, dump or disposal site liability for actions taken by dump/disposer within the Town of Decatur.

XX. The Town Board of the Town of Decatur shall, during operations, have the authority to impose any other reasonable conditions as a requirement of granting a permit to operate a recyclable material facility or a storage, treatment, dump or disposal site within the Town of Decatur, so long as such requirements are consistent with and at least as restrictive as the appropriate Wisconsin Statute or the Wisconsin Administrative Code.

SECTION VI. Substitute Performance

If after a reasonable demand made by the Town Board of the Town of Decatur, a dumper/disposer does not comply with the terms and conditions of this ordinance or any waste or recyclable material storage, treatment, dumping or disposal plan developed by the dumper/disposer for its recyclable material facility or for its storage, treatment, dump or disposal site, the Town Board shall have the right (but shall not be required) to correct the violation and charge the expense of such correction to the dumper/disposer, including against any bond provided by the dumper/disposer. By making the application for any recyclable material facility or any storage, treatment, dumping or disposal permit, a dumper/disposer grants to the Town of Decatur the right to go on the land of the recyclable material facility or a storage, treatment, dump or disposal site, if necessary, and carry out the waste or recyclable material, storage, treatment, dump or disposal plan or to perform the duties of dumper/disposer imposed by this ordinance, provided the dumper/disposer fails to act after reasonable notice to do so is given by the Town Board.

SECTION VII; Special sludge Regulation

Notwithstanding any provision herein before contained, sludge may be transported within the Town of Decatur for the purpose of storage, treatment, dumping or disposal or may be dumped or disposed on lands within the Town of Decatur upon the issuance of a special sludge permit hereunder issued by the Town Board of the Town of Decatur.

A. Sludge Regulations

1. No permit shall be granted for the dumping of sludge until after the applicant has obtained

a site approval permit from the Wisconsin Department of Natural Resources and applicant fully agrees to comply with the DNR regulations.

- 2, No permit shall be granted for the dumping of sludge on any land other than crop- land.
3. No permit shall be granted for the placing or dumping of sludge if the quantity to be dumped on the land in question shall be greater than one "acre/inch" for a twelve-month period or the needs of the crop growing or to be grown on the land during the twelve-month period, whichever is less.
4. No permit shall be granted for the dumping of untreated sewage.
5. No permit shall be granted for the dumping of sludge in excess of 10,000 gallons per acre over a twenty-four (24) hour period.
6. No permit shall be granted for the dumping of sludge on land where sludge or sewage has been dumped in the six-month period immediately preceding said dumping, however, nothing herein contained shall prevent a permit from being granted permitting the reapplication of sludge on the land covered by the permit within six (6) months of the initial application of sludge or treated sewage to the land pursuant to such permit provided such reapplication does not exceed the needs of the crop growing or to be grown.
7. No permit shall be granted for the dumping of sludge on soil that is not approved by the Wisconsin Department of Natural Resources and/or the Green County Sanitarian as being a type of soil that will readily assimilate the sludge.
8. No permit shall be granted for the dumping of sludge during rainy weather or where the soil to which the sludge is to be applied is waterlogged or frozen.
8. No permit for dumping sludge shall be granted where the lands to which it is applied are drainage ways, undrained areas or ponded areas.
9. No permit for the dumping of sludge shall be granted without restricting said dumping by prohibiting any dumping within two hundred fifty (250)
10. No permit for the dumping of sludge shall be granted without restricting said dumping by prohibiting any dumping within two hundred fifty (250) feet from any building occupied or used by humans and within fifty (50) feet from any roads or highways within the Town of Decatur.
11. No sludge shall be transported within the Town of Decatur unless in vehicles so designed as to prevent the dropping of any of said materials on the highways or roadways within the township. Any sludge which is dropped on a highway must be removed within four (4) hours of the time that notice is given to the person, firm, corporation or municipality holding the permit for transportation or dumping. The Town Board may not issue a

permit for dumping or transportation under this ordinance to any person, firm, corporation or municipality who has not complied with a removal order set forth herein.

B. Application for a permit

Application for special sludge permit to transport or dump sludge within the Town of Decatur, as required in this section, shall be made to the Town Board of the Town of Decatur. Such application shall be filed on a form provided by the Town Clerk and shall contain the following information:

1. Name, address, and telephone number of the applicant.
2. A description of the material to be transported or dumped.
3. The source of the material to be transported or dumped.
4. The quantity of material to be transported or dumped.
5. The description of the roads over which it will be transported and/or the lands on which it will be dumped.
6. If the permit is for dumping or placing the material on lands within the Town of Decatur, the quantity which has already been placed on said lands in the previous twelve-month period and the dates on which the material was previously placed on said lands.
7. If the permit is for dumping or placing the material on lands within the Town of Decatur, the manner in which the material will be applied or placed on said lands.
8. If the permit is for dumping or placing the material on lands within the Town of Decatur, the names and addresses of the owners of all property lying within two hundred (200) feet of the land on which the material is to be dumped or placed.
9. A signed statement by the applicant in form satisfactory to the Town Board of the Town of Decatur wherein applicant agrees that the applicant, its agents and servants will save harmless, indemnify, and defend the Town of Decatur, its officers, its agents and servants from any cost and expenses incurred through the failure of the applicant, its agents and servants to transport to and from and to apply the sludge as required by this ordinance, federal and state law and regulation during the time of the requested permit and thereafter, and wherein the applicant further agrees to save harmless, indemnify and defend the Town of Decatur, its officers, agents and servants from any claim for damages due to the negligence and/or an intentional act of the applicant, its agents and servants during the period of the requested permit or thereafter.

C. Special Sludge Permit

The application fee for a new special sludge permit shall be \$150.00 and shall be paid upon filing the application with the Town Clerk. The application fee for a renewal permit shall be \$150.00 and shall be due annually by July 1 st of each year.

SECTION VIII. Reimbursement of Expenses

All dumpers/disposers shall reimburse, during operations and after closure, the Town of Decatur within thirty (30) days of receipt for the Town Clerk of documented invoices for all reasonable expenses, including fees and disbursements, for legal, consulting and expert advice incurred by the Town as a result of the construction, transportation to and from, operation, maintenance, closure and/or long term care of the recyclable material facility or of a storage, treatment, dump or disposal site located within the Town of Decatur or as a result of the enforcement of this ordinance in connection with a recyclable material facility or with a storage, treatment, dump or disposal site located within the Town of Decatur. As used herein, expenses may include, but are not limited to, the following:

- A. Per Diem cost of town officials and town employees' salaries

- B. Fire Protection

- C. Police Protection

- D. Ambulance Protection

- E. Municipal insurance protection

- F. Roadway repair, maintenance and construction

- G. Negotiation and Arbitration expenses

SECTION IX. Application

Applications for permits except as noted herein under this ordinance shall be filed on a form provided by the Town Clerk along with the appropriate bond and/or insurance and application fees. The application form for sludge transfer storage, treatment, dumping or disposal shall be as noted in Section VII. The general application shall contain the following information along with any other information requested by the Town Board:

- A. Name, address, and telephone number of the applicant
- B. Location, type and legal description of the proposed facility site
- C. Name, address and telephone number of the responsible agent for the applicant
- D. Name, address and telephone number of the engineer for applicant
- E. Name, address and telephone number of the attorney for the applicant
- F. The type of, source of, and amount of recyclable material or waste estimated on a daily basis for the projected recyclable material facility or storage, treatment, dump or disposal site.

- G. Estimated times of construction, operation, and closure of the proposed recyclable material facility or the proposed storage, treatment, dump or disposal site.

- H. Estimated total acreage for the proposed recyclable material facility or the proposed storage, treatment, dump or disposal site and estimated capacity or active fill area during the life of proposed recyclable material facility or the proposed storage, treatment, dump or disposal site.

- I. Prior experiences and references in construction, operation, and maintenance of a recyclable material facility or of storage, treatment, dump or disposal site, citing specifically names, dates and locations of those facilities and cite at least three (3) references.

- J. Any available initial site reports, feasibility reports, or plan of operations filed with the Wisconsin Department of Natural Resources.

- K. Statement authorizing the Town Board of the Town of Decatur and its agents to enter the proposed recyclable material facility or the proposed storage, treatment, dump or disposal site for inspection of premises during the periods of application, operation, construction, maintenance and closure of the recyclable material facility or of the storage, treatment, dump or disposal site.

- L. A signed statement by the applicant in form satisfactory to the Town Board of the Town of Decatur wherein applicant agrees that the applicant, its agents and servants will save harmless, indemnify, and defend the Town of Decatur, its officers, its agents and servants from any costs and expenses incurred through the failure of the applicant, its agents and servants to transport to and from, construct, operate, maintain and close the recyclable material facility or the storage, treatment, dump or disposal site as required by this ordinance, federal and state law and regulation during the time of the requested permit and thereafter, and wherein the applicant further agrees to save harmless, indemnify and defend the Town of Decatur, its officers, agents or servants from any claim for damages due to the negligence and/or an intentional act of the applicant, its agents or servants during the period of the requested permit or thereafter.

SECTION X. Public Hearing

There shall be a public hearing on any application for a permit to engage in any uses or activities related to any recyclable material facility or any storage, treatment, dumping or disposal operations in the Town of Decatur. The application shall be determined by the Town Board as complete on file with the Town Clerk at least sixty (60) days before the public hearing. The public hearing shall be conducted under the following terms:

- A. Notice shall be given as a Class 3 notice as described in Section 985.07 Wis. Stats. (1995-1996) or any successor provision.
- B. The cost of publication of such notice shall be deposited by the dumper/disposer in advance.
- C. A public hearing shall be held on the date specified in the notice or any adjourned date; however, such public hearing shall be merely advisory in regard to affecting any action which may be taken by the Town Board upon such application.

SECTION XI. Bond

The Town Board of the Town of Decatur shall have the right to require the applicant/dumper/disposer to furnish the Town of Decatur with a bond and/or an insurance policy in such amounts as shall be determined by the Town Board, to assure the following:

- A. That the applicant, its agents and servants will comply with all of the terms, conditions, requirements and specifications contained in this ordinance;
- B. That the applicant, its agents and servants will faithfully operate the recyclable material facility or the storage, treatment, dump or disposal site for which the permit is issued in accordance with the provisions of this ordinance;
- C. That the applicant, its agents and servants will save harmless, indemnify and defend the Town of Decatur from any costs or expenses incurred through the failure of the applicant, its agents and servants, to operate, construct, transport to and from, maintain and close the recyclable material facility or the storage, treatment, dump or disposal site as required by this ordinance, federal and state law and regulation, condition or violation of this ordinance whenever the Town Board determines it is necessary for the Town to correct any condition or violation of this ordinance or from any damages due to the negligence and/or an intentional act of the applicant, its agents or servants; and
- D. That the applicant, its agents and servants will pay any and all penalties imposed

as a result of the failure of the applicant, its agents and servants to comply with all of the terms, conditions, requirements and specifications contained in this ordinance.

Before acceptance, all bonds and/or insurance policies shall be approved by the Town Board. If a corporate bond or insurance policy is issued it shall be executed by a company authorized to transact business in the State of Wisconsin as a surety. If a cash bond is offered, it shall be deposited with the Town Treasurer who shall give official receipt therefore, reciting that said cash has been deposited in compliance with and subject to the provisions of this ordinance. Failure to maintain an approved bond and/or insurance policy during the period of the permit shall automatically invalidate the permit and the Town Board shall have the right to obtain a court order terminating the storage, treatment, and dumping or disposal operation.

SECTION XII. Issuance

The application, if complete, as determined by the Town Board, for a permit under this ordinance shall be processed within 120 days of the receipt thereof, and shall be issued if the Town Board is satisfied that there has been or will be reasonable compliance with the conditions and regulations enumerated herein.

Pursuant to Chapter 289 Wis. Stats. (1995-1996) or its successor Chapter, the Town Board shall specify for any solid waste disposal facility, as defined in Chapter 289 Wis. Stats., (1995-1996) or its successor Chapter, all local approvals, including this ordinance. It shall then adopt a siting resolution and commence the negotiation/arbitration process prior to any approval or disapproval under this ordinance. The 120-day period for the application process shall not be applicable under such circumstances until a negotiated agreement has been signed or until an arbitration award has been forwarded to the Town Board. No solid waste disposal facility shall be constructed until a permit has been issued under this ordinance or until the permit has been waived under Chapter 289 Wis Stats. (1995-1996) or its successor Chapter.

All permits hereunder shall be effective and issued for the period from July 1 to June 30 of each year. All applicants shall re-apply to the Town Clerk for the annual license at least 120 days in advance of the June 30th deadline. The criteria established for re-application and issuance shall be the same as the criteria established for the initial license except that upon denial by an applicant of a permit or revocation of a permit, no new application may be filed within one hundred, twenty (120) days after the denial or revocation without Town Board approval.

If approved by the Town Board, the permit shall be issued by the Town Clerk, upon the applicant's written agreement to fully maintain compliance with any and all conditions placed in the permit by the Town Board.

SECTION XIII. Application Fees

The application fee for a new permit, except for a sludge permit as noted in Section VII, shall be \$1500.00 and shall be paid by applicant upon filing the application with the Town Clerk. The application fee for a renewal permit by applicant shall be \$500.00 and shall be due annually by July 1 st of each year.

SECTION XIV. Revocation

Any permit issued under the provisions of this ordinance may be revoked by the Town Board for any violation of law or ordinance pertaining to the dumper/disposer or the transportation to or from, construction, operation, maintenance and closure of the recyclable material facility or of the storage, treatment, dump or disposal site. The permit may be revoked by the Town Board, but only after a public hearing, held by the Town Board upon a published Class 1 notice as defined in Section 985.07 Wis. Stats> (1995-1996) or its successor section. The Town Board, if necessary, may at any time seek a court order terminating the transportation to and from processing, storage, treatment or disposal at the recyclable material facility or at the storage, treatment, dump or disposal site for any violation of this ordinance or due to the establishment of a public nuisance within the Town of Decatur as a result of actions at the facility or site or as a result of actions of the dumper/disposer.

SECTION XV. State Law Applies

Nothing contained herein shall be deemed to limit or restrict the application of any state law or administrative regulation of any state agency of the State of Wisconsin regulating the subject of this ordinance.

SECTION XVI. References

References to the term "person", "anyone", "individual", or like references shall be deemed to refer to a person, a sole proprietorship, a partnership, a corporation and a municipality, and also to a responsible member or a responsible officer or a responsible managing agent of any single proprietorship, partnership, corporation or municipality, unless the context clearly indicates otherwise.

SECTION XVII. Severability and Conflict

If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION XVIII. Penalty

Any person violating any provision of this ordinance shall be fined not less than \$100.00 nor more than \$500.00 for each offense and a separate offense shall be deemed committed during each day for which a violation occurs or continues. Imprisonment in the county jail can be

ordered only for failure to pay the fine that may be imposed. If imprisonment is ordered for failure to pay the fine, it shall be limited to 1 day of confinement for each \$20.00 of fine or fraction thereof.

SECTION XIX. Public and Private Nuisance

Notwithstanding any provision of this ordinance, the Town of Decatur or any person may maintain an action under Chapter 823 or Section 841.01 Wis. Stats. (1995-1996), or its successor sections, for public nuisance, private nuisance, or physical injury to their property caused by or alleged to have been caused by the recyclable material facility or the storage, treatment, dump or disposal site and should the Town or any person prevail against the dumper/disposer, they shall be entitled to judgment for damages and costs and may obtain judgment and order that the nuisance be abated at the recyclable material facility or at the storage, treatment, dump or disposal site.

Adopted this 17th day of January 17, 2017
By the Town Board of the Town of Decatur

Allen Schneider, Town Chairperson

Ronald L. Schwartzlow, 1st Supervisor

Robert A. Gadow, 2nd Supervisor

Attested by:

Ann L. Schwartz, Clerk/Treasurer