

**ORDINANCE NO. 94-2**

**TOWN OF ASHFORD  
FOND DU LAC COUNTY, WISCONSIN**

**AN ORDINANCE REGULATING LAND DISPOSAL OF INDUSTRIAL  
WASTEWATERS, BY-PRODUCTS, SLUDGE, AND SEPTAGE**

WHEREAS, it is in the public interest and welfare to establish an Ordinance regulating the land disposal of industrial wastewaters, by-products, sludge and septage for the protection of the Town's wells and water supply; and

WHEREAS, the Town finds it necessary to exercise its police powers as the same are authorized by sec. 60.22 and 61.34 of the Wisconsin Statutes; and

WHEREAS, the Town wishes to exercise general powers relating to the preservation of water supply, groundwater protection and to otherwise encourage the protection of the resources of the Town for the health, welfare and safety of the Town's residents.

NOW, THEREFORE, the Town Board of the Town of Ashford, Fond du Lac County, Wisconsin does ordain as follows:

**SECTION 1. APPLICABILITY**

The purpose of this Ordinance is to establish rules and regulations requiring the advance notice of the land application and disposal of industrial wastewaters, by-products, sludge from publicly-owned wastewater treatment works, and septage and to provide security to protect Town residents against injury caused by improper or negligent land application and disposal of liquid industrial wastewaters, by-products, sludge, and septage. This Ordinance is applicable to discharges to land disposal systems for liquid wastes, cleaning wastewaters and industrial sludges, dairy products processing (including process wastewater, whey and whey-related by-products), meat and poultry products processing, sludge from publicly-owned wastewater treatment works, and septage from haulers registered under Chapter NR 113. This Ordinance is not applicable to the field spreading of liquid manure or other farm originated wastes applied to the land in accordance with agriculturally sound practices. This Ordinance is intended to supplement, but not replace, existing state regulations, regarding the land application and disposal of industrial wastewaters, by-products, sludge and septage.

**SECTION 2. DEFINITIONS**

The following definitions are applicable to terms used in this Ordinance:

1. **“Detrimental Effect”** means having a significant damaging impact on groundwater for any present or future consumptive or nonconsumptive uses.
2. **“Groundwater”** means the portion of subsurface water which is within the zone of saturation, and includes but is not limited to, perched water tables, shallow regional groundwater tables, and aquifers or zones that are seasonally, periodically or permanently saturated.
3. **“Land Disposal”** means a system or facility for disposing of liquid wastes consisting of: (a) spray irrigation system; (b) an overland flow system; (c) a subsurface field absorption system; (d) a land spreading system; or (e) any other land area receiving liquid waste discharges.
4. **“Liquid Industrial Wastes and By-Products”** means processed wastewater from food processing, product manufacturing, or other industrial sources, or whey by-product material.
5. **“Liquid Wastes”** means industrial wastes and by-products, sludge from publicly-owned wastewater treatment works, and septage.
6. **“Raw Sludge”** means sludge that has not received biological, chemical, physical or thermal treatment that would significantly reduce the volatile solids or pathogens in the sludge, and includes sludge from primary and secondary sedimentation tanks and secondary activated sludge which has not been treated with facilities designed and operated in conformance with NR 110.26
7. **“Septage”** means the wastewater or contents of septic or holding tanks, dosing chambers, grease interceptors, seepage beds, seepage pits, seepage trenches, privies or portable restrooms.
8. **“Sludge”** means the accumulated solids resulting from the biological or chemical treatment, coagulation, floatation, filtration, or sedimentation of wastewater.
9. **“Subsurface Field Absorption System”** means a system of buried tile or perforated pipe for distributing liquid wastes below the soil surface.
10. **“Well”** means a bored, drilled, or driven shaft or a dug hole where the depth of the dug hole is greater than the largest surface dimension, and which is terminated above, or within or below an aquifer. This does not include holes or openings in the land surface such as those

made with normal agricultural equipment for tilling the soil or crop production.

### **SECTION 3. NOTICE REQUIREMENTS**

1. No land application of liquid wastes, cleaning wastewaters, industrial sludges, dairy products processing, including process wastewater, whey and whey-related by-products, meat and poultry products processing , sludge from publicly-owned wastewater treatment works, or septage shall occur within the Town of Ashford, Fond du Lac County, Wisconsin unless advance written notice of such land application and its intended scope is first given to the Town Board preceding the date when the land application is to occur. Said notice shall be provided to the Town Clerk and shall include (a) a copy of the WPDES application filed with the Wisconsin Department of Natural Resources and (b) a copy of the WPDES permit issued by the Wisconsin Department of Natural Resources. Individuals and entities regulated under this Ordinance shall file notice with the Town Clerk on or before December 31 of the year preceding the intended land application. The notice required by this section shall be in addition to any other reports, applications or notices required under any other Town Ordinance. The party providing notice shall be responsible for supplementing or updating the submitted materials. The notice requirements of this Ordinance are intended to be of a nature and scope to reasonably inform the Town and its residents of the nature of the land application program and the land disposal systems to be utilized.
2. The town may require the generator of a liquid waste, the owner or operator of a liquid waste land treatment system, or an independent liquid-waste handling contractor, if applicable, to provide samples of the liquid wastes that are being applied on lands located within the Town of Ashford. The Town Board reserves the right to obtain additional information that it deems necessary to identify the nature and effect of the liquid waste. In addition, any party that is subject to this ordinance shall provide the Town with copies of any site investigation or monitoring reports or studies that have been submitted to the Wisconsin Department of Natural Resources.
3. The Town Board or its designated agents shall have the right to enter upon private or public lands to inspect the land disposal system and to obtain samples of liquid wastes or soils. The Town Board or its agents shall make a reasonable effort to inform the relevant property owner before entry. Any person who permits the land disposal of liquid wastes upon his or her lands located within the Town of Ashford is deemed to

have given consent to the Town Board or its agents to enter his or her lands for the limited purpose of the administration of this Ordinance.

#### **SECTION 4. APPLICATION FEE**

The Notice required under Section 3, above, shall be accompanied by an application fee in the amount of \$500.00. The purpose of the application fee is to defray the Town's expenses incurred in the investigation and review of the information submitted under Section 3 above. A renewal fee of \$500 shall be filed every three years thereafter. The applicant shall reimburse the Town for expenses reasonably incurred in the investigation and review in excess of the \$500.00 application fee.

#### **SECTION 5. GROUNDWATER/WELL SECURITY**

1. The protection of groundwater sources and wells is necessary for the maintenance of the health, welfare and economic well-being of the Town of Ashford and its residents. To protect Town property owners from the detrimental effect to groundwater or wells in the Town, and to provide for reasonable compensation for any losses which may be incurred by Town residents, the security requirements of this Section must be met.
2. Prior to applying liquid wastes to land located in the Town, the relevant party shall file with the Town Clerk a sworn certificate representing that the applicant has a net worth of not less than \$500,000.00. In addition, the relevant party shall state in writing that it agrees to indemnify the Town and its residents for damages which have been proven to have been caused by the land disposal system or practices.
3. In lieu of filing a statement of net worth set forth in Section 2 above, the relevant party shall file a bond, a certificate of insurance, or other form of security acceptable to the Town Board in an amount deemed necessary to protect the Town and its residents in light of the facts and circumstances of the proposed land disposal system. The Town Board reserves the right to waive the requirement to file a bond, a certificate of insurance, or other form of security if the circumstances warrant.

#### **SECTION 6. EMERGENCY WATER PROVISIONS**

The party or parties applying liquid wastes shall reimburse the Town or its residents for the costs of providing emergency water provisions in all cases where it is reasonably determined by the Town Board that the operation of the land disposal system was the cause of the loss of the existing water supply.

#### **SECTION 7. NONEXCLUSIVITY**

The adoption of this Ordinance shall not preclude the Town of Ashford from adopting any other ordinance or regulation for the protection of the water supply and natural resources of the Town. The jurisdiction and duties defined in the Ordinance shall not preclude the Town Board or any other Town officer from the enforcement of any other Town ordinance or regulation. The requirements of this Ordinance are in addition to any other requirements of ordinances adopted by the Town of Ashford or Fond du Lac County.

### **SECTION 8. ENFORCEMENT AND PENALTIES**

The Town Board shall have the authority to institute the appropriate legal action or proceeding to prevent, restrain, correct or abate a violation of this Ordinance. Enforcement remedies created by this Ordinance are cumulative and shall be in addition to all other remedies, available under law. Any person who violates any provision of this Ordinance or any order, rule, or regulations promulgated by the Town Board under this Ordinance shall, upon conviction, be fined not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) for each offense, together with the costs and attorney's fees incurred in the prosecution. The Town Board shall provide written notice of a violation of this Ordinance. The relevant party receiving notice shall have 14 days to correct the infraction. Each day that a violation continues after the 14 days subsequent to the notice shall be deemed a separate offense. The penalties authorized under this Ordinance are not intended to preempt or replace a private party's right to seek damages in a civil action filed against the person or entity applying liquid wastes to lands located with the Town of Ashford.

### **SECTION 9. INTERPRETATION**

1. The provisions of this Ordinance shall be considered minimum requirements. Where the provisions of this Ordinance impose greater restrictions than any statute, other regulation, ordinance, or covenant, the provision of this Ordinance shall prevail. Where the provisions of any statutes, other regulation, ordinance or covenant impose greater restrictions than the provisions of this Ordinance, the provisions of such statute, other regulation, ordinance or covenant shall prevail.
2. The word "person" extends and applies to natural persons, firms, corporations, associations, partnerships, municipalities, and all entities of any kind capable of being sued unless plainly inapplicable.
3. Every word in this Ordinance imparting the masculine gender may extend to females as well as males, and every word imparting the singular number only may extend and be applied to several persons or things as well as to one person or thing. In interpreting any term in this Ordinance when the term is not defined in the section in question or in

the definition section, the ordinary meaning of the term will apply unless the context clearly indicates a different meaning is intended.

4. Nothing in this Ordinance shall be interpreted as guaranteeing or warranting that any land disposal method is environmentally safe, free from defects, or suited for the purpose for which it is intended.

**SECTION 10. SEVERABILITY**

If any provision of this Ordinance is invalid or unconstitutional, or if the application of this Ordinance to any person or circumstance is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the provisions or application of this Ordinance which can be given effect without the invalid or unconstitutional provision or application.

**SECTION 11. EFFECTIVE DATE**

This Ordinance shall take effect upon adoption and publication as a Class I notice in the Town's official newspaper.

The foregoing Ordinance was adopted at a duly called meeting of the Town Board of the Town of Ashford, Fond du Lac County, Wisconsin on the 10<sup>th</sup> day of October, 1994.

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Joe Koch, Town Chairman

Attest

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Vivian Bartelt, Town Clerk

Adopted this 10<sup>th</sup> day of October, 1994.

Published this 19<sup>th</sup> day of October, 1994