

Chapter 74

UTILITIES*

***Cross references**--Administration, ch. 2; buildings and building regulations, ch. 14; businesses, ch. 18; CATV, ch. 22; land division and development, ch. 34; solid waste, ch. 58; streets, highways and other public places, ch. 62; emergency utility repairs on streets and highways, § 62-45.

Article I. In General

- Sec. 74-1. Outhouses and privies.**
- Sec. 74-2. Appeals and variances for holding tanks.**
- Sec. 74-3. Permit and conditions for holding of sewage waste.**
- Sec. 74-4. Holding tank agreement.**
- Sec. 74-5. Inspection of holding tanks.**
- Sec. 74-6. Penalties for violation of holding tank agreement.**
- Secs. 74-7--74-30. Reserved.**

Article II. Sludge

- Sec. 74-31. Definitions.**
- Sec. 74-32. Penalty.**
- Sec. 74-33. Separate violations.**
- Sec. 74-34. Cause for withdrawal of permit.**
- Sec. 74-35. Permit required.**
- Sec. 74-36. Application.**
- Sec. 74-37. Referral to plan commission.**
- Sec. 74-38. Permit fee.**
- Sec. 74-39. Granting of permit.**
- Sec. 74-40. Term of permit.**
- Sec. 74-41. Testing.**
- Sec. 74-42. Bond.**
- Sec. 74-43. Notification.**
- Sec. 74-44. Permit application form for disposal of sewerage sludge.**

ARTICLE I.

IN GENERAL

Sec. 74-1. Outhouses and privies.

No outside toilets shall be erected within the town after the effective date of the ordinance from which this section is derived. Portable toilets shall be allowed during construction only and for special events as approved by the town board. Portable toilets shall be removed from construction sites when permanent toilets are functional.

(Ord. No. 96-6, § 2(2.11), 10-9-1996)

Sec. 74-2. Appeals and variances for holding tanks.

(a) In that the town prohibits the installation of holding tanks for new residential construction, any person denied permission to install and operate a residential holding tank for new construction by the town, may petition the town board for reconsideration of the town's denial and seek a variance to the prohibition.

(b) The town board shall upon receipt of any such petition as soon as practical call a public hearing thereon. Notice of the time and place of the hearing shall be given pursuant to the open meeting law.

(c) As soon as possible after such public hearing, the town board shall act on such petition either granting, denying, or conditionally granting the variance. In determining whether to grant, deny or conditionally grant the variance, the town board shall look to the standards as set forth in the Wisconsin Administrative Code and to the guidelines and past practice of the county.

(d) The town shall inform the state department of commerce in writing of each variance granted.

(Ord. No. 96-6, § 2(2.08(5)), 10-9-1996)

Sec. 74-3. Permit and conditions for holding of sewage waste.

No person shall install, operate, repair, maintain or reconstruct any device designed for the holding of sewage wastes in the town unless a permit therefor has been obtained under the conditions set out in sections 74-4 through 74-6.

(Ord. No. 96-6, § 2(2.08(1)), 10-9-1996)

Sec. 74-4. Holding tank agreement.

An agreement form will be provided by the town and shall be executed by the applicant for a holding tank. Such agreement shall provide as follows:

- (1) The applicant (owner) shall agree with the town to install a holding tank of adequate size for the use proposed as approved by the town engineer or plumbing inspector.
- (2) The applicant (owner) shall agree to conform to all rules and regulations, ordinances and codes of the town, as well as all regulations and statutes of the state or the county, both in the installation and the maintenance of such holding tank.
- (3) The applicant (owner) shall agree to the periodic pumping of such holding tank whenever necessary at his expense by a state approved or licensed tank pumping firm.
- (4) The applicant (owner) shall agree that at any time such holding tank is not pumped as necessary, the town or any designated officer thereof shall have the right on 24 hours' written notice to hire or otherwise accomplish the emptying of such tank at the expense of the owner. The town shall add to such cost a 15 percent additional charge for the administration of this section. The total amount owed to the town if such amount remains unpaid for 30 days shall be charged against the cash bond deposited by the owner which the owner shall thereupon replenish such cash bond by the same amount. In addition to all other methods of collecting the expenses incurred herein, the town treasurer may place such charge as a special charge against the real estate taxes of the owner and may be collected as such according to statute, including the right by the town to replenish such cash bond if owner refuses.
- (5) The owner will agree in such agreement to grant to the town full right, license and authority to enter upon their property for inspection, pumping and transportation from such holding tank.
- (6) As a further condition for the granting of such holding tank permit, owners agree that they will pay all special assessments due if and when a sanitary sewer becomes available, that they will grant all necessary easements for the installation of the holding tank. The agreement signed by such owners shall constitute a waiver of all special assessment procedures and amounts. Owners further shall agree that they will connect up to the town's sanitary sewer within 60 days of the date the town's sanitary sewer becomes available. In addition, when the town's sanitary sewer is available, owners agree to properly abandon the holding tank and appurtenances as required by law, the town engineer or plumbing inspector.
- (7) Owners shall simultaneously with the agreement referred to herein deposit with the town a cash bond in an amount as determined by the town board from time to time to guarantee to the town reimbursement for any and all expenses incurred by the town in alleviating any nuisance occurring as a

result of this holding tank. The cash bond shall at all times be maintained constantly at the amount originally deposited. Such bond shall be returned to the owner upon proper connection to the public sewer and abandonment of such holding tank. Interest earned, if any, by such cash deposit shall be the property of the town as an administrative charge by the town for administering such cash bond.

- (8) The agreement referred to in this section shall be made a part of this section and shall be executed in recordable form, shall contain the legal description of the owner's property benefited, and shall be recorded with the register of deeds for the county. All parties in interest to the owner's property shall execute and be parties to the agreement.
- (9) The agreement shall continue so long as the holding tank is maintained and shall terminate upon connection to public sewer and abandonment of such holding tank.
- (10) The agreement, upon execution by the owner, shall thereupon become a part of this section and enforceable as a part of this section as if it were contained in this section.

(Ord. No. 96-6, § 2(2.08(2)), 10-9-1996)

Sec. 74-5. Inspection of holding tanks.

In the event a violation ever occurs causing a nuisance, the town may inspect such holding tank on a monthly basis to ensure that future violations do not occur. The fee for these inspections shall be the responsibility of the owner and in the event the owner does not pay such inspection fees, the costs may then be added to the tax roll as a special real estate charge. The amount of the inspection fee shall be as determined from time to time by the town board.

(Ord. No. 96-6, § 2(2.08(3)), 10-9-1996)

Sec. 74-6. Penalties for violation of holding tank agreement.

Any violation of the holding tank agreement will subject the owner not only to the remedies provided in this article, but also to any applicable penalties in section 1-8 for violations of this article or of any other applicable ordinance, statute or regulation.

(Ord. No. 96-6, § 2(2.08(4)), 10-9-1996)

Secs. 74-7--74-30. Reserved.

ARTICLE II.

SLUDGE

Sec. 74-31. Definitions.

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

Site and *property site* mean the property on which the applicant intends to apply sludge. Each real estate tax parcel as found on the tax rolls of the town shall constitute a separate "site" or "property site," or as defined by the town board.

Sludge means the accumulated residual solids (usually in liquid form) resulting from the treatment of municipal or private wastewaters.

(Ord. No. 83-10, § 1(A), 12-12-1983)

Cross reference--Definitions generally, § 1-2.

Sec. 74-32. Penalty.

Any person who violates this article shall be subject, upon conviction to a forfeiture of not less than \$1,000.00 nor more than \$5,000.00, together with the costs of prosecution, and, in default of payment of such forfeiture and costs, shall be imprisoned in the county jail until such forfeiture and costs are paid, for a period not exceeding 90 days.

(Ord. No. 83-10, § 1(K), 12-12-1983)

Sec. 74-33. Separate violations.

Each violation and each day a violation continues or occurs, shall constitute a separate offense.

(Ord. No. 83-10, § 1(L), 12-12-1983)

Sec. 74-34. Cause for withdrawal of permit.

Any violation of this article by any permittee will be cause for the town board to withdraw permits already issued and suspend them for 12 months from the date of the violation.

(Ord. No. 83-10, § 1(M), 12-12-1983)

Sec. 74-35. Permit required.

No person shall apply or allow to be applied to lands under their ownership, lease or control, sludge to any land located within the limits of the town without first having obtained a permit from the town board. This section shall apply to both existing and

proposed sludge disposal operations.
(Ord. No. 83-10, § 1(B), 12-12-1983)

Sec. 74-36. Application.

Written application for a permit to apply sludge on any lands located within the town shall be made to the clerk. The application shall state:

- (1) The applicant shall be the owner of the treatment facility generating the sludge.
- (2) The name and address of the applicant, and if the applicant is a corporation, the name, address and registered agent of the corporation.
- (3) The post office and legal description of the site to be used.
- (4) The names and addresses of the landowners and haulers involved with the proposed disposal of the sludge. A copy of any contract related to the proposed disposal shall be appended to the application.
- (5) The length of time the applicant intends to apply sludge on the site or sites described in the application.
- (6) The name or names and address of the owners of any other site or sites upon which the applicant is presently applying sludge, whether or not such site or sites are within or without the corporate limits of the town. The requirements of this subsection may be waived by the town board.
- (7) Names and addresses of all property owners within 500 feet of the boundaries of the proposed application site. Each property owner will be given a copy of this article by the applicant.
- (8) The volume and content of sludge that is proposed to be applied. In addition to the nutritional content of sludge, applicant will supply exact and detailed analysis of the sludge metal content.

(Ord. No. 83-10, § 1(C), 12-12-1983)

Sec. 74-37. Referral to plan commission.

The clerk shall refer all applications for a permit under this article to the plan commission for their recommendation to the town board. The recommendation of the plan commission shall be presented to the town board within 60 days after such application for a permit is referred to the plan commission by the clerk. Upon receipt of such recommendation from the plan commission, the town board shall set a date for hearing on the application for such permit and the clerk shall notify the applicant of the date of such hearing. The applicant may present such evidence as it deems necessary to

the town board at such hearing in support of its application for a permit under this article. (Ord. No. 83-10, § 1(D), 12-12-1983)

Sec. 74-38. Permit fee.

The applicant shall accompany his application with a nonrefundable annual permit fee as set by town board resolution from time to time. (Ord. No. 83-10, § 1(E), 12-12-1983)

Sec. 74-39. Granting of permit.

The town board shall, after receiving the recommendations of the plan commission and after a hearing thereon as provided in this article, issue a permit under this article if it finds that all the provisions of this article are complied with, including the following:

- (1) That the sludge will be immediately incorporated with the soil, by injection only. (Absolutely no spreading). This subsection applies only to sludge applicants.
- (2) That the sludge will be applied in accordance with the appropriate regulations of the state department of natural resources and that approval has been obtained by the applicant from the state department of natural resources to apply sludge to the real estate described in the application.
- (3) That no sludge will be applied at a distance less than 500 feet from the nearest residence not located on an actual application site.
- (4) That the sludge will not be applied at a distance less than 500 feet from the nearest private water supply well and that the application of the sludge shall not constitute a possible contamination source for any water supply, irrespective of the location of the water supply from the disposal site.
- (5) That the sludge will not be applied at a distance less than 500 feet from any stream, lake, pond or other channelized waterway.
- (6) That the sludge will not be applied to any soil which, because of its composition, would tend to create a health hazard.
- (7) That the applicant has applied for and received all appropriate licenses from county or state licensing authorities.
- (8) That a copy of all reports required by the county or state be sent to the clerk at the same time as sent to the county or state.
- (9) That the application of sludge will not constitute a nuisance in any

manner.

- (10) That the application of sludge will only take place during the hours of 9:00 a.m. to 3:00 p.m. and will not be applied to any site on Saturday, Sunday or a holiday.
- (11) Absolutely no town roads will be used for transporting sludge without prior approval of the town board. The applicant must agree that all road damage or cleanups caused by applicant will be paid for by applicant and that monies can be taken from the cash bond if not paid within 30 days of billing.
- (12) The term "wastewater sludge" shall be applied only to state department of natural resources approved farm fields in accord with the current state and federal guidelines. The amount of sludge which can be applied to a parcel of land in any one given year shall be based on nutritional requirements and the allowable sludge metals as established by the most recent state department of natural resources and Environmental Protection Agency regulations. In no case shall more than two percent of the permitted total allowable amount of any one or more metals be applied to the land per year. The total allowable amount of metals shall be determined using the soil exchange capacity as analyzed by an approved laboratory for that specific parcel.
- (13) In the event the plan commission or the town board requests an independent sample and test of any proposed sludge, applicant agrees to allow the taking of a sample and such independent test at any time or place requested so that the integrity of the sample is preserved. In the event that independent test results are found to vary significantly from the content of the sludge as presented by the applicant, applicant shall be prohibited from releasing such sludge, and shall submit to a complete revaluation of future sludge applications in the town. Test results showing that more than two percent of the total soil capacity has been applied in any given calendar year shall constitute a significant variance under this subsection. Costs of any and all such independent tests shall be the responsibility of applicant.
- (14) If the town board does not find affirmatively with reference to any of the provisions in subsections (1) through (13) of this section, the application for such permit shall be denied.

(Ord. No. 83-10, § 1(F), 12-12-1983)

Sec. 74-40. Term of permit.

A permit issued under this article shall be for a period commencing on April 1 in the year of application and ending on December 1 in the year of application.

(Ord. No. 83-10, § 1(G), 12-12-1983)

Sec. 74-41. Testing.

The town board may require the applicant to conduct soil testing to determine the ability of the soil upon the premises described in the application to absorb sludge. The town board may also require a sludge analysis every time sludge is used. The manner and type of such soil test and sludge analysis shall be determined by the town board and all costs and expenses for such soil test and sludge analysis shall be paid by the applicant. All test results must be presented to the planning board with application; the cost of which will come out of the bond if not paid within 30 days of billing.
(Ord. No. 83-10, § 1(H), 12-12-1983)

Sec. 74-42. Bond.

Before such permit shall be issued, the applicant shall file with the clerk a cash bond in the sum of \$2,500.00 and a surety bond in the sum of \$10,000.00 and proof of liability insurance conditioned upon and as a guarantee that the applicant will fully abide by all of the terms and provisions of this article and any other ordinance applicable thereto and any rules and regulations imposed by the town board as conditions for granting of such permit.
(Ord. No. 83-10, § 1(I), 12-12-1983)

Sec. 74-43. Notification.

At least 72 hours prior to sewerage sludge disposal, written notification must be made to the town board at Route 4, W320 S8315 Beulah Road, Mukwonago, Wisconsin 53149, and any resident within 1,500 feet of the site to be used. The notice will also include what roads will be used.
(Ord. No. 83-10, § 1(J), 12-12-1983)

Sec. 74-44. Permit application form for disposal of sewerage sludge.

The permit application form for disposal of sewerage sludge shall be as follows:

APPLICATION FOR A DISPOSAL OF SEWERAGE SLUDGE PERMIT

Year applied for:

Name of Applicant:

Address of Applicant:

Phone Number of Applicant:

Agent of Applicant/Person to Contact:

Address of Agent:

Phone Number of Agent:

Legal Description, Post Office Address and Tax Key Number of Proposed Property Sites:

Names and Addresses of the Landowners:

Names and Addresses of the Haulers:

(A copy of any contract related to the proposed disposal shall be appended to the application.)

Length of time the applicant intends to apply sludge on the site or sites:

Site	Length of Time
<hr/>	<hr/>
<hr/>	<hr/>

Names and addresses of the owners of any other sites which the applicant is presently applying sludge outside the Town of Mukwonago:

Owner	Address
_____	_____
_____	_____
_____	_____

Names and addresses of all property owners within 300 yards of the boundaries of the proposed sites:

Name	Address
_____	_____
_____	_____
_____	_____

Liability Insurance Coverage Yes _____ No _____

If Yes: Name of Company: _____

 Name of Agent: _____

 Limits: _____

I, the undersigned do swear to or affirm that all statements contained herein are true and correct to the best of my knowledge. I also realize and agree to be bound by and comply with all terms, conditions and provisions of _____ of the Municipal Code of the Town of Mukwonago and all the laws, ordinances, rules, regulations and penalties governing disposal of sewerage sludge in the Town of Mukwonago, Waukesha County and the State of Wisconsin.

Dated this _____ day of _____, 20_____

Applicant

Subscribed & sworn to before me this
_____ day of _____, 20_____

NOTARY PUBLIC, STATE OF WI

My Commission expires: _____

DO NOT WRITE BELOW THIS LINE OFFICE USE ONLY

Application received on: _____

Application received by: _____

Permit Fee received on: _____

Amount of Permit Fee: _____

Date referred to Planning Commission by Town Clerk: _____

ACTION BY TOWN PLANNING COMMISSION

This application was reviewed by the Town Planning Commission of the Town of Mukwonago on _____ and the following recommendation was made:

BY THE TOWN PLANNING COMMISSION

ATTEST:

Clerk

Date Planning Commission Recommendation received: _____

Date of Hearing by Town Board: _____

ACTION BY TOWN BOARD

This application was received by the Town Board of the Town of Mukwonago on _____ after a public hearing held on _____ and a permit for disposal of sewerage sludge on the following sites: _____

was/was not granted on

(strike one)

BY THE TOWN BOARD

Chair

ATTEST:

Clerk

(Ord. No. 83-10, 12-12-1983)