

## **289.22 Town Of Ellington Waste Treatment, Disposal, and Storage Ordinance**

STATE OF WISCONSIN  
Town of Ellington  
Outagamie County

### SECTION I - TITLE AND PURPOSE

The title of this ordinance is the Town of Ellington Waste Treatment, Disposal, and Storage Ordinance. The purpose of this ordinance is for the town to regulate by permit and penalty the construction, maintenance, operation, closure, and long-term care of certain waste treatment, disposal, and storage facilities or sites in the town.

### SECTION II - AUTHORITY

The Town Board of the Town of Ellington, Outagamie County, Wisconsin, has the specific authority under s. 289.22, Wis. stats., and general authority under its village powers under s. 60.22, Wis. stats., to adopt this ordinance.

### SECTION III - ADOPTION OF ORDINANCE

This ordinance, adopted by a majority of the town board on a roll call vote with a quorum present and voting and proper notice having been given, provides for the regulation by permit of the construction, maintenance, operation, closure, and long-term care of certain waste treatment, disposal, and storage facilities or sites in the town.

### SECTION IV - DEFINITIONS

In this ordinance:

A. **"Hazardous waste"** means any solid waste identified by the State of Wisconsin, Department of Natural Resources as hazardous under s. 291.05 (1), (2), or (4), Wis. stats.

B. **"Hazardous waste facility"** means a site or structure for the treatment, storage, or disposal of hazardous waste and includes all of the contiguous property under common ownership or control surrounding the site or structure.

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

D. **"Solid waste disposal"** means the discharge, deposit, injection, dumping, or placing of any solid waste into or on any land or water. "Solid waste disposal" does not include the transportation, storage, or treatment of solid waste.

E. **"Solid waste facility"** means a facility for solid waste treatment, solid waste storage, or solid 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, incinerators, transfer stations, storage facilities, collection and transportation services, and processing treatment and recovery facilities. "Solid waste facility" includes the land where the facility is located. "Solid waste facility" does not include any of the following:

1. A facility for the processing of scrap iron, steel, or nonferrous metal using large machines to produce a principal product of scrap metal for sale or use for remelting purposes.
2. A facility that uses large machines to sort, grade, compact, or bale clean wastepaper, fibers, or plastics, not mixed with other solid waste, for sale or use for recycling purposes.
3. An auto junkyard or scrap metal salvage yard.
4. Any facility exempt from town regulation by state law or regulation, including certain demolition facilities.

F. **"Solid waste storage"** means the holding of solid waste for a temporary period, at the end of which period the solid waste is to be treated or disposed.

G. **"Solid waste treatment"** means any method, technique, or process that is designated to change the physical, chemical, or biological character or composition of solid waste, including incineration.

H. **"Town"** means the Town of Ellington, Outagamie County, Wisconsin.

I. **"Town board"** means the board of supervisors for the Town of Ellington, Outagamie County, Wisconsin, and includes designees of the board authorized to act for the board.

J. **"Town clerk"** means the clerk of the Town of Ellington, Outagamie County, Wisconsin.

K. **"Wis. stats."** means the Wisconsin Statutes, including successor provisions to cited statutes.

## SECTION V - SUBDIVISION AND NUMBERING OF THIS ORDINANCE

This ordinance is divided into sections designated by uppercase Roman numerals. Sections may be divided into subsections designated by uppercase letters. Subsections may be divided into paragraphs designated by numbers. Paragraphs may be divided into subdivisions designated by lowercase letters. Subdivisions may be divided into subdivision paragraphs designated by lowercase Roman numerals. Reference to a "section," "subsection," "paragraph," or "subdivision" includes all divisions of the referenced section, subsection, paragraph, or subdivision.

## SECTION VI - COVERAGE

A. No person may construct, operate, maintain, close, or provide long-term care of any solid waste facility or hazardous waste facility in the town without a permit issued by the town board under this ordinance.

B. The permit under this ordinance shall be considered a local approval, as defined in s. 289.33 (3) (d), Wis. stats., subject to the requirements of s. 289.22, Wis. stats.

C. The permit application fees shall be established annually by resolution of the town board. The permit shall be issued by the town board or its designees prior to any person commencing any form of construction, operation, maintenance, closure, or long-term care of any facility or site in the town that is subject to this ordinance.

## SECTION VII - APPLICATION/PERMIT

The application for the town permit under this ordinance shall designate the legal premises to be used by the permitted person for the proposed use, site, or facility. The permit may not be amended if the person changes premises in the town. The permit is not transferable from one person to another. The application for the permit shall, at minimum, contain all of the following:

- A. The name of the applicant and the name of any agent for the applicant.
- B. The address of the applicant.
- C. The address and legal description of the premises for the facility or site and the current owner of the premises.
- D. The age of the applicant, if a natural person not over the age of 18 years.
- E. The type and use of the facility or site to be constructed, operated, maintained, closed, or provided long-term care at the premises.
- F. The length of time in years for construction of the facility, if applicable.
- G. All local approvals, licenses, or permits necessary for the applicant to obtain for the facility prior to any construction, maintenance, operation, closure, or long-term care.
- H. All federal or state approvals, licenses, or permits necessary for the applicant to obtain for the facility prior to construction, maintenance, operation, closure, or long-term care.
- I. The proposed length in years of operational time for actual disposal, treatment, or storage operations at the facility.
- J. The current and proposed zoning and land use plan for the facility premises, if any.
- K. The projected amount, type, and source of solid waste or recyclable material to be disposed, stored, or treated at the facility on an annual basis.
- L. The projected type, source, and amount of hazardous or toxic waste to be stored, treated, or disposed at the facility on an annual basis.
- M. Copies of all feasibility reports and plan of operations submitted or to be submitted to the State of Wisconsin, Department of Natural Resources.
- N. The financial security projected to be provided by the applicant to insure compliance with the permits as issued and with any other approvals.
- O. Any public nuisance or threats to the public health or safety known by the applicant that is located at or near the proposed or current waste location.
- P. Any other information regarding the construction, operation, closure, or long-term care of the facility requested by the town in the application form.

## SECTION VIII - EXEMPTIONS

All of the following facilities, sites, or uses in the town are exempt from this ordinance:

- A. A facility or site under s. 289.43 (5), Wis. stats., used for the collection of recyclable material or for the dumping for disposal of waste, including garbage or refuse, on the property where it is generated from a single family or household in the town, a member of which is the owner, occupant, or lessee of the property; provided that any such waste, garbage, refuse, or recyclable material to be disposed or collected in the town is placed in a suitable dumpster or container, or is stored in another way as not to cause a public or private nuisance.
- B. The use of sanitary privies and what are commonly known as seepage beds, holding tanks, or septic tanks that conform to applicable ordinances in the town.
- C. The discharge of human waste products into any public sewerage system located within the town, or of the land spreading of human waste products on lands in the town.

D. A farm facility on which only animal waste, resulting from the operation of that farm, is disposed at the facility.

E. 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.

F. Any existing waste facility or site operating upon the effective date of the ordinance with the current waste uses or activities at the facility or site that may or may not be subject to any preexisting town ordinance. Any new waste, storage, disposal, or treatment uses or activities after the effective date of this ordinance, or any expansion of the capacity of the facility or site after the effective date of this ordinance, shall be subject to this ordinance.

G. Any demolition or other waste facility, including any land spreading of wood, ash, or sludge site exempt under s. 289.43, Wis. stats.

H. Any alcohol fuel production system exempt under s. 289.44, Wis. stats.

I. Any fruit and vegetable waste facility exempt under s. 289.445, Wis. stats.

J. Any recyclable material collection facility approved for collection or processing operations by Outagamie County, the town, or any responsible unit under s. 287.09, Wis. stats.

K. Any solid waste facility or hazardous waste facility or site that was permanently closed prior to the effective date of the ordinance.

L. Any solid waste or recyclable material collection container or dumpster for solid waste and recyclable material disposal and collection used by the public that is provided by any federal, state, county, or town agency; provided however that any waste, garbage, refuse, or recyclable material to be disposed or collected in the town is placed in a suitable dumpster or container, or is stored in another way so as not to cause a public or private nuisance.

M. Any solid waste collection container or dumpster for solid waste and recyclable material, disposed and collected by the public provided by any person in the town; provided however that any waste, garbage, refuse, or recyclable material to be disposed or collected in the town is placed in a suitable dumpster or container, or is stored in another way as not to cause public or private nuisance.

N. Any open container or other system used to burn nontoxic or nonhazardous material in a lawful manner and so as not to cause a public nuisance in the town.

## SECTION IX - SPECIFIC ORDINANCE AND PERMIT PROVISIONS

A. No person may be issued or reissued a permit in the town under this ordinance until the appropriate application fee has been paid by the applicant to the town clerk.

B. No person may be issued or reissued a permit under this ordinance who has failed to properly and fully complete and submit to the town clerk complete and truthful responses on the application form developed and provided by the town.

C. No person may be issued or reissued a permit in the town under this ordinance, and any permit may be revoked or suspended after a public hearing by the town board, if the facility applicant or the permittee fails to do any of the following:

1. Obtain and maintain for a proposed or existing facility or site all necessary approvals, licenses, or permits from the appropriate town, Outagamie County, state, and federal agencies.

2. Comply with all conditions and restrictions attached by the town board to the permit issued under this ordinance by the town board.

3. Timely prevent or timely limit specific public nuisances or potential threats to the public health and safety at or adjacent to the facility caused by the applicant or permittee at or near the existing site or facility upon notice of such public nuisance or threats by the town board.

D. The town board may, in order to prevent public nuisances, protect the public health, and protect the environment in the town, require specific conditions or restrictions to be attached to any permit issued by the town board under this ordinance. These conditions or restrictions, if applicable, shall be complied with during the construction, operation, maintenance, closure, and long-term care operations of the facility or site by the permittee or applicant.

#### SECTION X - PENALTY PROVISIONS

Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this ordinance shall, upon conviction, pay a forfeiture of not less than \$5,000.00 or more than \$50,000.00, plus the application surcharges, assessments, and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this ordinance. In addition, the town board may seek an injunctive relief from a court of record to enjoin further violations.

#### SECTION XI - SEVERABILITY


If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.


#### SECTION XII - EFFECTIVE DATE

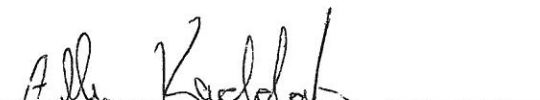
This ordinance is effective on publication or posting.


The town clerk shall properly post or publish this ordinance as required under s. 60.80, Wis. stats.

Adopted this 26 day of Oct., 2011

  
Chairperson

  
1<sup>st</sup> Supervisor

  
2<sup>nd</sup> Supervisor

Attest:   
Ellington Clerk



**TOWN OF ELLINGTON  
PERMIT APPLICATION  
FOR  
CONSTRUCTION OF WASTE TREATMENT,  
DISPOSAL AND STORAGE FACILITY**

OFFICE USE ONLY:

File # \_\_\_\_\_  
Date Filed \_\_\_\_\_  
Fee Paid \_\_\_\_\_  
(Amount due **\$20,000.00**)

This request is for a Permit for Construction of a Waste Treatment, Disposal, or Storage Facility under Town of Ellington Ordinance ELL 2011-2.

Applicants are required to review and abide by the Town of Ellington ORDINANCE ELL 2011-2 ESTABLISHING REQUIREMENTS FOR THE CREATION AND MAINTENANCE OF A WASTE TREATMENT, DISPOSAL, and AND STORAGE FACILITY IN THE TOWN OF ELLINGTON.

For Inspection Purposes, Access to the Waste Treatment, Disposal, and or Storage Facility will be open at all times to the Town Board of Ellington or Their Representatives.

Name of Applicant \_\_\_\_\_

Birth date of Applicant \_\_\_\_\_

Address \_\_\_\_\_

Telephone \_\_\_\_\_ Fax \_\_\_\_\_ E-mail \_\_\_\_\_

Contractor \_\_\_\_\_

Address \_\_\_\_\_

Telephone \_\_\_\_\_ Fax \_\_\_\_\_ E-mail \_\_\_\_\_

Attach Legal Description of Property Location of Waste Treatment, Disposal, and or Storage Facility \_\_\_\_\_

Reason for Construction of Waste Treatment, Disposal, and or Storage Facility \_\_\_\_\_

Project type \_\_\_\_\_

Source of solid waste \_\_\_\_\_

Amount of hazardous or toxic waste \_\_\_\_\_

CERTIFICATION

I hereby certify that all the above statements and attachments submitted herewith are true and correct to the best of my knowledge and belief.

Signature of Applicant \_\_\_\_\_ Date \_\_\_\_\_

Submit 1 copy of this application and all attachments along with payment of \$20,000.00 to:

TOWN OF ELLINGTON  
% Bonnie Fischer, Clerk  
N 4399 Mayflower Road  
Black Creek, WI 54106

**Approval of this permit does not constitute approval by other agencies (County, State, DNR).**

**Town Permit will become invalid if other agencies (County, State, DNR) disapprove your application.**

APPROVED ON \_\_\_\_\_

CHAIRPERSON: \_\_\_\_\_

1<sup>ST</sup> SUPERVISOR: \_\_\_\_\_

2<sup>ND</sup> SUPERVISOR: \_\_\_\_\_