

ORDINANCE NO. 09-004

AN ORDINANCE TO REPEAL AND RECREATE SECTION 12.11
OF THE CODE OF ORDINANCES OF THE TOWN OF SOMERS
RELATING TO LANDFILL AND EXCAVATION PERMITS

The Town Board of Supervisors of the Town of Somers, Kenosha County, Wisconsin, hereby repeals and recreates Section 12.11 of the Code of Ordinances of the Town of Somers relating to landfill and excavation permits to read as follows:

12.11 LANDFILL AND EXCAVATION PERMITS.

(A) **Intent.** Whereas the Town Board of the Town of Somers has received an increasing number of complaints from residents of the Town of Somers that indiscriminate landfill and excavation projects throughout the Town are causing hardships on adjoining land owners due to diversion of surface water drains, and the Town Board has observed indiscriminate deposits of concrete, asphalt, dirt and organic materials in the ditches and lowlands of the Town of Somers and whereas, the Town Board finds that such indiscriminate and unrestricted landfill operations is detrimental to the land being filled and adjacent land owners as well as being a source of pollution to surface waters caused by the runoff from filled and excavated lands.

(B) **Permit Required.** No person shall place any fill in their yards or in any low lying lands ditches, waterways, or drainways, marshes or other lands upon either private or public property within the Town of Somers without first obtaining a permit. No person shall excavate or fill or by a combination of excavating or filling, more than 400 cubic yards or more of dirt, soils, sand or other excavation or fill material without first obtaining a permit therefore. In addition, the permittee must comply with the provisions of Chapter 17 of these ordinances.

Application for such permit shall be made to the Building Inspector upon forms to be provided by the Building Inspector and such application shall contain the following information, to allow for review by the Town Building Inspector and Public Works Superintendent.

- (1) The owner of the land to be filled or excavation.
- (2) A description of the land area to be filled or excavated with a sketch or plat showing the area to be filled and the adjacent areas as well as the name and addresses of any owners of property adjoining or affected by the proposed landfill.
- (3) In the event that the proposed fill or excavation shall affect any marsh, lowland, ditches, waterways, or runoff of surface water and application and sketch shall show the method by which such waters shall be drained.

(4) The type of materials to be used in the proposed fill or excavation and the place or location from which the fill is to be obtained.

(5) The quantities of fill and/or excavated material which are anticipated in the project.

(6) The name and address of the person responsible for transporting and depositing the fill or excavation material together with streets and highways by which the fill or excavation material will be transported. The Town Board shall set the weight limits and periods of time during the calendar year in which said fill or excavation material may be transported over the streets and town roads.

(7) The dates in which the fill or excavation operation will be carried on and a statement as to the proposed leveling of top soil and seeding of filled land.

(8) Such other information as the Building Inspector may require to make a determination as to granting a land filling permit.

(C) **Permit Limitations.** No permit issued under this ordinance shall be valid for more than six (6) months from the date of issue except that said permit may be extended for good cause shown to the Building Inspector. Any permit(s) issued hereunder shall be prominently displayed at the fill site to be valid.

(D) **Wisconsin Statutes Adopted.** Section 88.90(1)(2), Wis. Stats., relating to natural water courses is hereby adopted by reference as if set forth in full.

(E) **Fill Content.** All fill materials for any land filling operation shall be confined and restricted to clean earth fill. The use of concrete, bituminous asphalt or petroleum based products or organic debris is prohibited. All fill material shall comply with the State of Wisconsin residual soils standards.

(F) **Surface Water.** No permit shall be granted by the Building Inspector until said Building Inspector is satisfied that the filled area will not adversely affect the properties of others or change the grade of land and flow of surface waters to adversely affect adjoining areas or be a source of pollution to surface water.

(G) **Consultant's Fees.** No permit shall be granted until any consultant's fees incurred or anticipated to be incurred by the Town for engineering, legal or the like have been paid in full. The amount of fees shall be determined by the Town Administrator.

(H) **Exceptions.** This ordinance shall not apply to any lands within the Shoreland and Floodplain Ordinance of Kenosha County or to the spreading of top soil on residential property for lawn and garden purposes provided said top soil does not exceed six (6") inches in depth.

(I) **Fee.** The fee for a landfilling/excavation permit shall be Fifty (\$50.00) Dollars and shall be paid to the Building Inspector at the time an application is filed.

(J) **Compliance with Chapter 17.** To the extent applicable, any permittee shall also comply with conditions of Chapter 17 of these ordinances.

(K) **Penalties.** Any person who shall violate this section shall upon conviction be subject to the penalties in Section 25.04 of the Municipal Code of the Town of Somers and for the actual expenses incurred by the Town in bringing the subject premises into conformance with these ordinances.

Dated at Somers, Wisconsin, this 14th day of April, 2009.

TOWN OF SOMERS

By: James M Smith
James Smith, Chairperson

Attest: Timothy Kitzman
Timothy Kitzman, Clerk/Treasurer