

**Town of Mentor
Clark County,
Wisconsin**

**Ordinance 2019-127
Waste Transfer Station Operator's License**

Section 1. Finding, Purpose and Authority

(1) Findings. While waste transfer stations can provide community benefits, waste transfer stations can also have both direct and indirect adverse impacts and can contain nauseous, offensive or unwholesome impacts on the community. Waste transfer stations can lower surrounding property values. *See* "Potential Impacts of Proposed Wates Transfer Stations Near Carbondale," BBC Research & Consulting (November 20, 2012). Waste transfer station operations can have adverse impacts on groundwater and surface water if not properly managed, and can generate harmful levels of odor, dust and noise. Waste transfer stations can have negative impacts on the landscape and aesthetics if not properly screened and fenced, and can present safety concerns to members of the public if not properly secured. Truck traffic from such operations can also generate off-site impacts including litter and safety concerns to children and other residents. Aspects of waste transfer stations are left unregulated with potential adverse impacts to the public health, safety and welfare of the residents of the Town.

(2) Purpose. The purpose of this Ordinance is to provide minimum standards for all waste transfer stations in the Town, and to require licenses for waste transfer station operators in order to protect public health and safety, to protect the public from damage to the quantity or quality of ground and surface waters, to minimize or prevent adverse impacts from on-site and off-site operations, and to promote the general welfare of the people within the Town of Mentor.

(3) Authority. This Ordinance is adopted by the powers granted to the Town of Mentor by the Town's authority under § 66.0415, and other authority under Wisconsin Statutes. Any amendment, repeal or recreation of the statutes relating to this Ordinance made after the effective date of this Ordinance is incorporated into this Ordinance by reference on the effective date of the amendment, repeal or recreation.

Section 2. Applicability and Scope

(1) This Ordinance shall apply to all waste transfer stations within the Town of Mentor, except as set forth in sub. (2).

(2) This Ordinance shall not apply to the following waste transfer station operations:

(a) Waste transfer stations which are located in the Town, are fully constructed, and operational as of October 8, 2019.

Section 3. Definitions

- (1) "Solid waste facility" shall have that meaning as set forth in Wis. Stat. § 289.01(35), as amended from time to time.
- (2) "Waste transfer station" shall mean a solid waste facility at which transferring of solid waste from one vehicle or container to another, generally of larger capacity, occurs prior to transporting to the point of processing or disposal.
- (3) "Landowner" means the person who has title to land in fee simple or who holds a land contract for the land.
- (4) "Adjoining landowner" means any property within 5,280 feet (1 mile) of the proposed waste transfer station regardless of whether there is a residence or structure on the property.
- (5) "Town" means the Town of Mentor.
- (6) "Town Board," means the Town Board of the Town of Mentor.
- (7) "Operator" means any person who is engaged in, or who has applied for a license to engage in operating a waste transfer station, whether individually, jointly or through subsidiaries, agents, employees, contractors, or subcontractors.
- (8) "Operator's license" or "license" means the license required of waste transfer station operators in this Ordinance to undertake waste transfer station operations in the Town of Mentor.

Section 4. License Required

- (1) License Requirement. No person shall operate a waste transfer station within the scope of this Ordinance in the Town of Mentor without first obtaining an operator's license from the Town Board.
- (2) License Term.
 - (a) Except for the first year of operation under this Ordinance, an operator's license shall be granted for a period of one year commencing on January 1 " and ending on December 31st of the following calendar year. For the first year of operation under this Ordinance, the operator's license will extend from the date of issuance until the first December 31st after 12 months of operations have been completed.
 - (b) An operator's license may be renewed as set forth in Section 8.
- (3) License Amendment. If the -Town has issued an operator's license, the operator may request an amendment to that license during the license term, using the same process as the

original license application.

(4) License Transfer. An operator's license may be transferred to a new operator, if the new operator provides financial assurances and fulfills any other legal requirements as may be required by the Town, county, or state and if the new operator executes a certification, agreeing to fully comply with the license. A license transfer is not effective unless and until approved by the Town Board.

(5) License Revocation. An operator's license may be revoked under the procedures in Section 9.

Section 5. Procedures For Applying For A License

(1) Application Form. The Application Form for a license to operate a waste transfer station in the Town of Mentor shall be available from the Town Clerk or from the Town's website.

(2) Application Submittal. The applicant shall submit five (5) copies of the Application Form and all required documentation required under Section 6 to the Town Clerk accompanied by the payment of both the non-refundable application fee of \$500 and the non-refundable base administrative fee of \$2,500 established for the administration of this Ordinance. The fees shall be made payable to "Treasurer, Town of Mentor." The Application Form shall be signed by the operator and by the landowner, provided the landowner is a person other than the operator.

(3) Initial Review by the Town Board.

(a) Preliminary Review. The Town Clerk shall forward the application to the Town Board for initial review to determine if additional information or expertise is necessary to properly evaluate the application. If no additional information or expertise is deemed necessary, the Town Board shall schedule the application for a hearing under sub. (4).

(b) Additional Information. The Town Board may request the applicant to submit additional information if the Town Board determines that more information is needed. The Town Board may also retain the services of an engineering firm or other qualified person with appropriate expertise ("retained expert") to review the application and report to the Town Board whether additional information is required for review of the application and to determine whether the application meets the standards of this Ordinance.

(c) Additional fees. If the Town Board determines that additional expertise is required, the Town Board shall authorize retaining the services of an engineering firm, environmental consultant, attorneys, or other qualified person with appropriate expertise to advise the Town and shall give written notice to the applicant of the additional administrative fee to be charged beyond the base administrative fee to cover the cost of the services of any such retained expert. The additional fee shall be paid before the additional review is undertaken.

(d) Once the applicant has submitted any additional information and has paid the additional administrative fee in the amount charged, the retained expert shall report to the Town Board on whether the application meets the requirements of this Ordinance.

(4) Decision by the Town Board.

(a) Notice and Hearing. Once the application is complete and any report by a retained expert has been completed, the Town Clerk shall place the application on the agenda for the next regular meeting of the Town Board. If a special meeting is warranted, the applicant shall pay the additional fees incurred for the special meeting. The Town Board shall set a date for a public hearing and give public notice at least fifteen (15) days prior to the date scheduled for the hearing, with the notice mailed to all adjoining landowners. At the public hearing, the Town Board shall take public comment on the proposed waste transfer station license.

(b) Town Board Decision. Following the public hearing, the Town Board may take immediate action or set a date for the meeting at which time they shall make a final decision on the operator's license. If a special meeting is warranted, the applicant shall pay the additional fees incurred for the special meeting. The Town Board shall review the retained expert's report as well as public comments made at the public hearing. The Town Board may grant the license if it determines that the operation of the waste transfer station will be consistent with the minimum standards and the purposes of this Ordinance. If the Town Board denies the license, the applicant may request a hearing under the provisions of Section 9(3).

Section 6. License Application

All applicants for a license shall submit the following information:

(1) Ownership Information.

(a) The name, address, phone number(s), and e-mail address of the operator of the waste transfer station.

(b) The name, address, phone number(s), and e-mail address of all owners or lessors of the land on which the waste transfer station operations will occur.

(c) If the operation is subject to a lease, a copy of a fully executed lease and/or agreement between the landowner and the operator who will engage in waste transfer station operations on the proposed site.

(2) Site Information and Maps.

(a) A certified survey map(s) and parcel identification number(s) of the property on which the waste transfer station will be located.

(b) An aerial photo of the proposed site at a scale of 1 inch equals 660 feet signed by both the operator and the landowner.

(c) A topographic map of the waste transfer station site extending 5,280 feet beyond the site boundaries at contour intervals no wider than 10 feet showing the boundaries of the site, the location and total acreage of the site, and the name of all roads within one mile of the site.

(d) The location within the site of all existing and proposed buildings and other structures, equipment, storage, and parking areas.

(e) A map on which all residential properties (properties with a residence on them), agricultural, and commercial properties within 5,280 feet of the boundaries of the site in all directions are marked and given a numerical identification of the location.

(f) A map on which all residential, agricultural and municipal wells within 2,640 feet of the boundaries of the site in all directions are marked and given a numerical identification of the location.

(g) The location and name of all surface waters, including lakes, private or public ponds, streams (including intermittent streams and headwaters), drainage ditches, wetlands, drainage patterns and other water features on the site and within 2,640 feet of the site.

(h) A map identifying the location of all other non-contiguous sites within the Town of Mentor and adjacent towns, if any, that will contribute solid waste to the same solid waste transfer station to which the site for which the applicant seeks a license will also contribute.

(3) Operation Plan.

(a) All final documentation, including permits, required and/or issued by the State of Wisconsin for the operation of the waste transfer station.

(b) The plan of operation submitted to and approved by the Wisconsin Department of Natural Resources.

(c) Dates of the planned commencement and cessation of the waste transfer station operation.

(d) Description of facility's methods, machinery and equipment to be used for operations.

(e) Estimated volume of solid waste to be received, processed, and/or transferred over the life of the waste transfer station and for the next calendar year.

(f) Location of road access points).

(g) The proposed location within the site of all buildings and other structures, equipment, storage and parking areas.

(h) Identification of all proposed off-site trucking routes, together with the frequency of traffic and the common schedule of travel to be used for transporting solid waste to or from the site.

(i) A listing of all chemicals used in the waste transfer station.

(4) Information Demonstrating Compliance with Minimum Standards.

(a) The operator shall provide the information necessary to demonstrate that the waste transfer station operation will comply with the minimum standards in Section 7.

(b) For waste transfer station operations commencing after the effective date of this Ordinance, the operator shall also provide information establishing baseline conditions at the site before waste transfer station operations commence, including the groundwater elevation across the site, groundwater and surface water quality at the site for lead, arsenic barium, cadmium, chromium, cyanide, manganese, mercury, selenium, zinc, VOCs, PF AS, and phosphorus, and the base flow of surface water within 2,640 feet of the site.

(5) Special Exceptions. The applicant can request a special exception from the application requirements of this section if it can demonstrate that the information required can be provided by alternative means or is not necessary for an evaluation of the particular waste transfer station operation, and that the public health, safety and welfare will not be adversely affected thereby.

Section 7. Minimum Standards of Operation

The Town Board may, at its discretion, grant a license to operate a waste transfer station if the applicant can demonstrate that the following minimum standards of operation will be met:

(1) General Standards.

(a) Issuance of this license is not objectionable by reason of emission of odor, dust, smoke, gas, vibration or noise, or does not subject a hazard to health or property.

(b) The operator shall stake or otherwise mark the borders of the entire site and shall secure the entire border of the property housing the waste transfer station by suitable fencing.

(c) A misting system with deodorants to reduce, mask, and eliminate odors shall be installed prior to the operations within the waste transfer station and utilized to reduce, mask, and eliminate odors at the waste transfer station.

(d) A ventilation system with scrubbers or air filters shall be installed in order to minimize odors emanating from the waste transfer station, including but not limited to biofilters to pass malodorous air through organic matter such as wood chips, mulch, or soil to capture odor molecules.

(e) Solid waste shall be dumped on a concrete floor within the building and an approved drainage collection system will be used to collect any liquids from the solid waste. The holding tank:(s) or industrial tank:(s) shall be properly maintained and pumped out when necessary. The contents of the holding tank: or industrial tank shall be properly disposed of following the State of Wisconsin rules and regulations.

(f) Solid waste shall not be dumped, stored, or placed outside the building and shall not be stored on the property for over 24-hours.

(g) The waste transfer station shall be a fully enclosed structure. The doors or openings shall be closed during hours of non-operation and shall be closed to the greatest extent possible during hours of operation.

(h) The waste transfer station shall also be constructed using a concrete base and concrete side walls to minimize potential rodent intrusion.

(i) Waste transfer station walls shall be insulated with sound-absorbing materials to mitigate noise.

(j) The washing of all equipment, including roll-offs and dumpsters, shall occur within the building and shall occur on a daily basis.

(k) All incoming and outgoing loads shall be covered and shall be leak-proof to avoid leachate spills and other litter from entering roads and adjoining properties.

(l) In the event that complaints are received regarding odors, the property owner, the operator, a Town Representative and the complainant, will work collectively to determine the source of the odor and to implement a reasonable mitigation plan.

(m) Operator shall hire a company that specializes in rodent control to implement a rodent control plan that meets or exceeds the following requirements:

1. Bait traps surrounding the waste transfer station monitored on an as-needed basis;
2. Live traps on the property for larger rodents/animals monitored on an as-needed basis; and
3. Identifies and eliminates insect breeding areas and implement practices that do not create new breeding areas.

(n) In the event that complaints are received regarding rodents, the property owner, the operator, a Town Representative and the complainant, will work collectively to determine the source of the rodents and to implement a reasonable mitigation plan.

(O) Litter or debris from the facility shall be contained on the property and cleaned on a daily basis. All equipment and dumpsters shall be clean and free of odor, insects and rodents.

(P) Daily policing of site perimeters by waste transfer station personnel is required and litter or debris shall be picked-up and properly disposed of. This is to be completed in the evening after trucks have been emptied for the night and the outgoing load fully secured.

(q) All parking areas, driveways and thoroughfares on the parcels shall be hardscaped such as asphalt or concrete. This would include the routes for the delivery of material to the facility and the route for material and/or empty trucks leaving the facility. All graveled areas shall be maintained in a dust free surface.

(r) Operator shall sweep or otherwise clean all on-site roadways and parking lots on a daily basis to minimize the spread of litter, debris, or dust.

(s) Owner/Operator will notify the Town Clerk regarding miscellaneous complaints, questions regarding operations, and neighbor complaints. A dated log of complaints shall be kept by the owner/operator and action taken to resolve the complaint. The log shall be open for review by the Town Board.

(t) The property owner and/or the operator of the facility shall allow access at any time to appropriate Town employees or contracted employees with the Town who administer or enforce any condition of the license.

(u) Stormwater Management shall be designed in accordance with the State of Wisconsin, Clark County, and Town stormwater management regulations, if existing.

(v) Hours of operations shall be limited from 10:00 AM to 5:00 PM, Monday through Friday.

(w) The capacity of the facility will not exceed an average of 10 tons of waste hauled in and/or out per day, Monday through Friday.

(x) A scale shall be installed on site and shall be allowed with approved plans. Operator shall maintain and retain scale records for a period of three (3) years.

(y) Vehicle back-up alarms shall use the lowest allowable noise setting or, if legally permissible under federal law, vehicles shall use white-noise back-up alarms on all vehicles at the waste transfer station.

(z) The operator shall demonstrate that all other applicable federal, state and local licenses and approvals required for the waste transfer station operation have been obtained prior to applying for this license and operating the waste transfer station. Operator shall retain, in good standing, all required federal, state, and local licenses and approvals required for the waste transfer station operation.

(aa) The operator shall provide notice to the Town of any notices of violation, citations, or other enforcement actions taken by any other governmental body against the waste transfer station operation within the Town.

(bb) The operator shall demonstrate compliance with all of the other provisions of this Ordinance. All applicable provisions of other Town ordinances must be followed in addition to the conditions of this license.

(2) Standards Regarding Off-Site Impacts.

(a) The operator shall undertake all measures necessary for the control of surface water runoff from the waste transfer station in order to prevent pollution and erosion of sediment onto neighboring properties, surface water and groundwater, and shall also comply with the standards for erosion control under NR 216 and NR 151 as applicable.

(b) In the event that the waste transfer station site contains areas adjacent to the waste transfer station operations that are being used for agricultural, commercial or residential purposes, the operator shall undertake all measures necessary to control surface water runoff from those areas from exiting the waste transfer station operations or otherwise causing contamination of surface water and groundwater.

(c) The waste transfer station shall have a buffer area of a minimum of 500 feet along bordering property lines and public roadways.

(d) The operator shall screen the waste transfer station from public view to the maximum extent practicable through the use of earthen berms, additional setbacks or other measures. A vegetation plan shall be submitted showing the planting of vegetation (trees, shrubs), which shall be at least 3' tall at the time of planting to encompass the border of the property housing the waste transfer station. The vegetation shall be located so that they provide a solid screening of the facility within 5 years of permit issuance.

(e) Operator shall "Adopt a Road" within one mile of each direction from the point of access to the property containing the waste transfer station and shall engage in clean-up in the spring (after snowmelt) and in the fall.

(f) The operator shall ensure that trucks from the waste transfer station shall not interfere with the safety of children being taken or returned from school, or the safety of residents.

(g) The operator shall limit night lighting onsite, to that which is minimally necessary for security and, wherever possible, shall be shielded from illuminating off-site areas. Every effort consistent with legal requirements for aerial safety shall be made to minimize illumination of the night sky.

(h) The operator shall control off-site noise levels to the maximum extent practicable and noise levels at the site boundary shall be limited to no greater than 55 dBA. In

the event that complaints are received regarding noise levels, the property owner, the operator, a Town Representative and the complainant, will work collectively to determine the source of the noise and to implement a reasonable mitigation plan.

(3) Standards Regarding Groundwater and Surface Water.

(a) Impacts to Groundwater Quality.

1. The waste transfer station shall have at least one monitoring well up gradient and downgradient from the waste transfer station. The operator shall take quarterly samples for lead, arsenic, barium, cadmium, chromium, cyanide, manganese, mercury, selenium, zinc, VOCs, PF AS, and phosphorus.
2. Waste transfer station operations shall not cause a reduction in groundwater quality as detailed in Wis. Admin. Code ch. NR 140 and shall not result in the exceedance of any other preventative action limit or enforcement standard.

(b) Impacts to Surface Water Quality.

1. Waste transfer station operations shall not cause a reduction surface water quality and shall not result in the exceedance of any other action limit or enforcement standard for surface water that lies within 2,640 feet of waste transfer station.

(4) Recordkeeping and Reporting.

(a) To ensure the Operator is complying with the terms of the License and this Ordinance, the Operator shall keep and maintain the following records for a period of three (3) years from the date of each event's happening, and as applicable, the record's creation:

1. Incoming loads, including the time, date, company, truck number, truck license plate, weight (loaded), weight (empty), type of solid waste, and origin of the load.
2. Outgoing loads, including the time, date, company, truck number, truck license plate, weight (loaded), weight (empty), type of solid waste, and destination of the load.
3. Facility operating log, noting any unusual events during the operating day, including, but not limited to, maintenance or operational issues, equipment malfunctions, and unusual weather conditions which may have contributed to any non-compliance or violation of the Ordinance or the License.
4. Complaint log, noting the date, time, complaining party, nature of the complaint, and remedial or other follow-up measures or activities to effectively address the complaint and the results of those measures or activities.
5. Accidents or releases, including any details regarding accidents, waste releases, or receipt of hazardous materials.

7. Testing results, including such tests for suspected unacceptable solid waste, including any and all environmental or monitoring test results.
 8. Maintenance records, including documentation of cleaning and other maintenance-related activities required by the License or Ordinance.
 9. Employee training and appropriate certification documentation
 10. Employee health and safety reports, including any OSHA-required documentation.
- (b) The Operator shall compile quarterly reports (by January-March; April-June; July-September; October-December) for submission to the Town with the following information:
1. Weight (tons) and loads (number of customers) received at the waste transfer station each month.
 2. Weight (tons) and loads (number of customers) shipped from the waste transfer station each month.
 3. A description of any unusual events that took place at the transfer station, including accidents and discoveries of unacceptable waste.
 4. A summary of complaints received, and actions taken to respond to the complaints.

Such quarterly reports shall be completed within 30 days of the end of each respective quarter.

(5) Hazardous materials.

(a) Hazardous waste shall not be allowed on the property.

(b) The operator shall not accept solid waste containing any hazardous chemicals in toxic amounts, or residuals declared to be hazardous by a government agency in toxic amounts.

(c) The operator shall have a plan for responding to spills of any hazardous materials on the site.

(6) Special Exceptions.

(a) The operator can request a special exception from the minimum standards of this Section if it can demonstrate that the intent of this Ordinance can be achieved through the use of alternative measures and that the public health, safety and welfare will not be adversely affected thereby.

(b) The Town Board can impose requirements in addition to or exceeding the minimum standards if it has evidence that the public health safety and welfare will not be adequately protected without the imposition of additional measures.

Section 8. Annual Report and License Renewal

(1) Annual Report.

(a) No later than March 1st of each calendar year, the operator shall submit an annual report to the Town Board for all waste transfer facilities for which the operator has a license in the Town of Mentor.

(b) The annual report and shall include the following information:

1. An identification of the operator and location of the waste transfer station.
2. A description of activities and operations on the site for the previous calendar year.
3. A description of activities and operations on the site anticipated for the following calendar year.
4. A written report demonstrating how the operator has been in compliance with all terms and conditions of its license and this Ordinance. The report shall also include any groundwater and other monitoring results.
5. A summary of all areas of non-compliance, and a plan for bringing non-compliant areas into compliance.

(2) License Renewal.

(a) The operator shall make written request to the Town Clerk for a renewal of the license to operate the waste transfer station no later than March 1st of the year in which the license will expire. The application shall be accompanied by the payment of both the renewal application fee and the base administrative fee established for the administration of this Ordinance.

(b) The written request for renewal shall include the annual report from the previous calendar year in accordance with the provisions of subsection (1).

(c) The Town Clerk shall review the renewal application within 30 days of receipt to determine whether the application is complete and upon a determination that it is complete shall forward it to the Town Board.

(d) The Town Board shall review the application to determine if additional information or expertise is necessary to properly evaluate the application. The Town shall retain an engineer or other qualified person with appropriate expertise to inspect the waste transfer station site unless the site is reported as being inactive during the past year, in which case a member of the Town Board may be assigned to inspect the site. **If** no additional information or expertise is deemed necessary, the Town Board shall schedule the application for a decision under (g).

(e) Additional fees. **If** the Town Board determines that additional expertise is required, the Town Board shall authorize hiring an engineer or other qualified person with appropriate expertise to advise the Town and shall give written notice to the applicant of the

additional administrative fee to be charged beyond the base administrative fee to cover the cost of additional review by retained expert. The additional fee shall be paid before the additional review is undertaken.

(f) Once the applicant has submitted any additional information and has paid the additional administrative fee in the amount charged, the retained expert shall report to the Town Board on whether the renewal application meets the requirements of this Ordinance. The Town Clerk shall place the request on the agenda of the next regular meeting or a special meeting of the Town Board prior to the expiration of the license.

(g) The Town Board may grant the request for renewal if it finds:

1. There have been no violations of the Ordinance or the license which have not been appropriately remedied.
2. The operator has not received multiple or recurring citations or orders for violations of the operator's license or this Ordinance.
3. All applicable fees have been paid and financial responsibility requirements have been met.

(h) If the Town Board denies the request for renewal, the Town Board shall notify the operator and provide the operator with an opportunity for a hearing.

Section 9. Inspection. Enforcement. Procedures and Penalties

(1) Inspection. The Town Board or other authorized representative of the Town may make inspections to determine the condition of waste transfer station in the Town of Mentor in order to safeguard the health and safety of the public and determine compliance with the minimum standards under this Ordinance upon showing proper identification.

(2) Violations. The following are violations under this Ordinance:

(a) Engaging in operation of a waste transfer station without an operator's license granted by the Town Board.

(b) Failure to comply with the minimum standards and other terms of this Ordinance.

(c) Making an incorrect or false statement in the information and documentation submitted during the licensing process, or during inspection of the operation by the Town or its duly appointed representative.

(d) Failure to timely file the annual operational report under Section 8.

(e) Failure to take appropriate action in response to a complaint, notice of violation, citation, request for additional financial assurance under Section 10 or other order issued by the Town.

(3) Hearings.

(a) Any person affected by a notice and order issued in connection with the enforcement of this Ordinance under sub. (4), or upon denial of an application for a license or license renewal, may request, and shall be granted, a hearing on the matter before the Town Board, provided such person shall file with the Town Clerk, a written petition requesting the hearing and setting forth his name, address, telephone number and a brief statement of the grounds for the hearing or for the mitigation of the order. Such petition shall be filed within thirty days of the date the notice and order are served or upon 30 days upon denial of an application for a renewal. Upon receipt of the petition, the Town Clerk shall set a time and place for a hearing before the Town Board and shall give the petitioner written notice thereof.

(b) After the hearing, the Town Board by a majority vote, shall sustain, modify or withdraw the notice under sub (4), or grant or deny the license or license renewal, depending on its findings as to whether the provisions of this Ordinance have been complied with, and the petitioner shall be notified within ten days in writing of such findings.

(c) The proceedings of the hearing, including the findings and decision of the Town Board and the reasons therefore shall be summarized in writing and entered as a matter of public record in the office of the Town Clerk. Such record shall also include a copy of every notice and order issued in connection with the case.

(4) Remedies. The Town Board may take any appropriate action or proceeding against any person in violation of this Ordinance, including the following:

(a) Issue a stop work order.

(b) Issue a notice of violation and order that specifies the action to be taken to remedy a situation.

(c) Issue a citation in accord with the Town of Mentor Citation Ordinance.

(d) Refer the matter to legal counsel for consideration and commencement of legal action including the assessment of penalties under sub (6) and injunctive relief.

(e) Suspend or revoke the operator's license under sub (5).

(5) License Suspension or Revocation. After giving notice and a hearing, the Town Board may suspend or revoke an operator's license for a violation under sub (1).

(6) Penalties.

(a) Any person or entity who is adjudicated for a violation shall pay a forfeiture of not less than \$100 per violation nor more than \$5,000 per violation and/or be subject to injunctive relief. Each day a violation exists is a separate violation.

(b) Any person or entity adjudicated for violation of this Ordinance shall pay court costs and reasonable attorney's fees. The remedies provided herein shall not be exclusive of other remedies.

(7) A failure by the Town to take action on any past violation(s) shall not constitute a waiver of the Town's right to take action on any present violation(s).

Section 10. Financial Assurance

(1) Financial assurance shall be provided to the Town as a condition of license approval in the amount necessary for the following:

(a) Road repair. An amount necessary for the repair and maintenance of Town roads used for truck traffic transporting solid waste to or from the site.

(b) Water Supply. An amount necessary to provide an alternative water supply to potentially affected residences or agricultural operations within 2,640 feet of the site or such other area shown to be impacted by the operator's operations.

(c) Property Value Guaranty. An amount necessary to fulfill the obligations to potentially affected Adjoining Landowners under Section 12 of this Ordinance.

(2) The form of financial assurance made to the Town of Mentor shall be that form agreed to by the Town Board and may include performance bonds, cash, irrevocable letters of credit or other measures agreed upon by the Town Board.

(a) Bonds shall be issued by a surety company licensed to do business in Wisconsin. At the option of the operator, a performance bond or a forfeiture bond may be filed.

(b) Each bond shall provide that the bond shall not be cancelled by the surety, except after not less than ninety (90) days' notice to the Town, in writing, by registered or certified mail. Not less than thirty (30) days prior to the expiration of the ninety (90) day notice of cancellation, the operator must deliver to the Town a replacement bond in absence of which all waste transfer station activities shall cease.

(c) Each bond shall be made payable to "Town of Mentor."

(3) In the event the Town determines that the amount of financial assurance must be increased to meet specific road repair, water supply, or property value guaranty needs, or the amount available has been utilized, the Town shall notify the operator of the additional amount needed and the basis for the request. The operator shall have 30 days to provide the increased amount.

(4) The operator shall also provide to the Town proof that it has provided the financial assurance for waste transfer stations under Wisconsin law, if required by Wisconsin law.

Section 11. Damages to Private Water Supply

(1) A property owner within 2,640 feet of the waste transfer station may seek remedies under subs (2)-(5) for any of the following damages to private water supply:

(a) A preventative action limit or enforcement standard IS exceeded in a private water supply well on the owner's property.

(b) A substantial adverse impact on the quantity of water from a private well on the owner's property occurs, including, but not limited to, the inability of any such well to provide water on a continuous basis.

(c) A substantial adverse impact on the quality of water from a private well on the owner's property occurs, including, but not limited to, a water sample failing to meet the groundwater quality standards detailed in Wis. Admin. Code Ch. NR 140.

(d) Contamination of surface waters which serve as a source of water for personal, agricultural or municipal functions.

(2) Any property owner under sub (1) seeking a remedy under this Section shall simultaneously file a notice with the Town and the waste transfer station operator of the occurrence of the event under sub (1) explaining the nature and extent of the problem.

(3) Within 24 hours of receipt of such notice under sub (2), the Town may use funds provided under Section 10 to provide an adequate interim water supply. The Town shall also use funds under Section 10 to indemnify the Town for any claims filed under Wis. Stat. § 281.77(4). An interim water supply shall continue until the Town has approved the report or plan under sub (4).

(4) Within 20 days of receipt of notice under sub (2), the waste transfer station operator shall provide to the property owner and to the Town a report that demonstrates that the impact to the property owner was not attributable to the waste transfer station operation or to present a plan for a permanent alternative water supply to be paid by the operator.

(5) The Town shall, in consultation with the property owner, review the report or plan and approve or deny such plan. If the Town determines that the waste transfer station operator was not the cause of damage to the private water supply, the operator may elect to be reimbursed by the property owner for the costs of supplying water during a period not exceeding one year.

(6) A property owner beyond 2,640 feet of the waste transfer station may apply to the Town for use of funds under Section 10 to remedy damages to a private water supply identified in sub (1), provided that the property owner can demonstrate to the Town that the damage to the private water supply was caused by the waste transfer station. If the Town determines that the damage was caused by the waste transfer station, the property owner can utilize the remedies in subs (2) to (4).

Section 12. Property Value Guaranty

(1) Term; Acceptance of Property Value Guaranty by Landowner. Commencing upon Town approval of an Operator's waste transfer station license and until the cessation of waste transfer station operations by the Operator, the Operator will offer a Property Value Guaranty as set forth in this Section to all eligible Adjoining Landowners by sending a letter containing the same to each Adjoining Landowner (as defined herein). The Operator shall provide the Town with a copy of each offer sent to an Adjoining Landowner and, upon request, will provide the Town with proof of the Adjoining Landowner's receipt of such offer in the form of a U.S. Postal Service Return Receipt from the address to which tax bills for the property are sent or a similar receipt signed by at least one of the owners of the property listed on the tax bill for the property. If any such offer is returned to Operator as undeliverable due to the Adjoining Landowner's refusal to accept the letter containing the offer, such refusal shall constitute a refusal of the offer of the Property Value Guaranty. As used herein, the "Adjoining Landowners" shall mean the owners of the properties within one (1) mile from the border of the property containing the waste transfer station. Each Adjoining Landowner will have one (1) year from the Adjoining Landowner's receipt of the Property Value Guaranty within which to accept the Property Value Guaranty offered by the Operator pursuant this Section or an alternative property value guaranty mutually agreed upon by the Operator and the Adjoining Landowner. Any acceptance of the Property Value Guaranty by an Adjoining Landowner shall constitute such owner's agreement to be bound by the provisions of the Property Value Guaranty provisions of this Ordinance. If the Adjoining Landowner does not accept or otherwise declines the offer for the Property Value Guaranty offered by the Operator pursuant to this Section, the Adjoining Landowner shall execute a wavier of the Property Value Guaranty. If the Adjoining Landowner fails to execute a wavier of the Property Value Guaranty after declining the Property Value Guaranty or otherwise fails to accept the Property Value Guaranty hereunder within one (1) year from the Adjoining Landowner's receipt of the Property Value Guaranty offer from the Operator, such non-acceptance or declining shall constitute a waiver of the Property Value Guaranty. Copies of any and all agreements between the Operator and an Adjoining Landowner or waivers from an Adjoining Landowner shall be submitted in a timely manner by the Operator to the Town Clerk.

(2) Property Subject to Property Value Guaranty. Residential, agricultural, and commercial properties located within 5,280 feet of the border of the property containing the waste transfer station (each an "Adjoining Property") are eligible for the Property Value Guaranty hereunder, subject to the following limitations: Industrial properties shall not be eligible for the Property Value Guaranty.

(3) Notice Required. If Adjoining Landowner that accepted the Property Value Guaranty as provided herein desires to sell his or her property and to take advantage of the Property Value Guaranty provided in this Section, the Adjoining Landowner must notify the Town Clerk and the Operator of his or her intent to sell the Adjoining Landowner's Adjoining Property not later than the date the Operator has completed all waste transfer station operations in the Town under this Ordinance.

(4) Fair Market Value for Property Value Guaranty on Adjoining Property.

(a) Prior to listing the property for sale, the Adjoining Landowner and Operator shall agree upon the selection of a certified appraiser licensed by the State of Wisconsin that prepares appraisals in Clark County, who shall prepare a market value appraisal of the property assuming the mine operation did not exist. The appraiser's appraisal shall establish the market value for the Property Value Guaranty. If the Adjoining Landowner and the Operator agree upon the appraiser, the Operator shall pay for the appraisal of the property.

(b) If the Adjoining Landowner and the Operator cannot agree upon an appraiser pursuant to subsection (1) above, the Adjoining Landowner and the Operator shall each select a certified appraiser licensed by the State of Wisconsin that prepares appraisals in Clark County, at their own respective expense, to prepare a market value appraisal of the property assuming the waste transfer station did not exist. The market value for the Property Value Guaranty shall be the average of the two appraisals. The Adjoining Landowner shall pay for the appraisal conducted by the appraiser selected by the Adjoining Landowner and the Operator shall pay for the appraisal conducted by the appraiser selected by the Operator.

(c) The market value for the Property Value Guaranty determined pursuant to the procedure set forth in this subsection shall hereafter be referred to as the "Fair Market Value."

(5) Listing Contract Requirement. Once the Fair Market Value for the property has been determined pursuant to subsection (4), the Adjoining Landowner shall then enter into a listing contract for the property with a Wisconsin licensed real estate broker, which contract shall have a term of at least six (6) months and not more than one (1) year. The listing contract shall name the Operator as a potential buyer excluded from the listing, such that if the Operator purchases the property during the term of the contract no commission shall be due to the broker. The listing price for the property shall be no more than ten percent (10%) above the Fair Market Value. If the Adjoining Landowner fails to enter into a listing contract hereunder within three (3) months after the Fair Market Value has been determined, the Adjoining Landowner shall reimburse the Operator for any appraisal costs paid by the Operator or, if any appraisal costs payable by the Operator have not yet been paid, the Adjoining Landowner shall be liable for such expenses and shall pay such costs directly to the appraiser.

(6) Notice of Offer. If the Adjoining Landowner receives any bona fide written offer, the Adjoining Landowner shall provide the Operator with a copy of the offer to purchase no later than five (5) days of the Adjoining Landowner's receipt of the offer. If Adjoining Landowner does not accept such offer (or allows such offer to expire), Adjoining Landowner shall provide the Operator with written notice of the Adjoining Landowner's non-acceptance or rejection of the offer (or the expiration of the offer) no later than five (5) days after such rejection or non-acceptance (or expiration of the offer). If the Adjoining Landowner rejects or does not accept an offer or allows an offer to expire and the Adjoining Property later sells for a selling price of less than that contained in the offer that was rejected, not accepted, or allowed to expire, then the provisions of Section 12(4) shall not apply and instead the Operator shall pay the Adjoining Landowner the difference between the selling price in the offer that was rejected, not accepted, or allowed to expire and the Fair Market Value, less what the realtor's commission would have been on the difference if the sale would have been at full market value. Said payment by Operator shall be made at or prior to closing with the buyer. If the Adjoining Landowner fails to provide the

Operator with a copy of any bona fide written offer received by the Adjoining Landowner within the five (5) day period set forth herein, such failure shall constitute a waiver of the Property Value Guaranty hereunder and the Operator thereafter shall not be liable for any Property Value Guaranty on the Adjoining Landowner's Adjoining Property.

(7) Option to Purchase. Before accepting any bona fide offer for less than the Fair Market Value, the Adjoining Landowner shall give the Operator (5) business days' notice with a copy of the applicable offer to purchase (if a copy of such offer has not already been provided to the Operator). If the notice is by fax or e-mail, it shall require a confirmation of receipt. Notices sent by U.S. mail shall be sent as certified letters with return receipt. The Operator may, within two (2) business days of receipt of the notice and copy of the offer, notify the Adjoining Owner by facsimile, e-mail, or personal delivery that it elects to purchase the property for its Fair Market Value, and if the Operator makes such an election, the Owner shall sell the property to the Operator at the Fair Market Value and upon the other terms contained within the offer (not including the purchase price, which shall be the Fair Market Value).

(8) Sale Pursuant to Offer. If the Operator does not so notify the Adjoining Landowner within said time, the Adjoining Landowner may then accept the offer and sell the property as provided in the offer. The Operator shall pay the Adjoining Landowner the difference between the selling price in the Offer and the Fair Market Value, less what the realtor's commission would have been on the difference if the sale would have been at full market value. Said payment by Operator shall be made at or prior to closing with the buyer.

(9) Exclusions. The Property Value Guaranty shall apply only once for any Adjoining Property and shall be available only to the owners of record of an Adjoining Property with an existing residence on the date an Operator receives its License from the Town. Adjoining Property shall not qualify for the Property Value Guaranty if the Adjoining Landowner sells or otherwise conveys the property to a third-party by a transaction which is not considered an arm's length transaction, such as a sale or gift to a relative. As used herein, a "relative" shall be defined to mean any individual related to the Adjoining Landowner by blood, marriage, or adoption. Notwithstanding the forgoing, the exclusions hereunder shall not apply with respect to transfers by will, descent, or survivorship upon the death of an Adjoining Landowner.

Section 13. Severability. Interpretation. and Abrogation

(1) Severability.

(a) Should any section, clause, provision or portion of this Ordinance be adjudged unconstitutional or invalid, unlawful, or unenforceable by a final order of a court of competent jurisdiction including all applicable appeals, the remainder of this Ordinance shall remain in full force and effect.

(b) If any application of this Ordinance to a particular parcel of land is adjudged unconstitutional or invalid by a final order or a court of competent jurisdiction including all applicable appeals, such judgment shall not be applicable to any other parcel of land not specifically included in said judgment.

(2) The provisions of this Ordinance shall be liberally construed in favor of the Town

of Mentor and shall not be construed to be a limitation, or a repeal of any other power now possessed or granted to the Town of Mentor.

(3) This Ordinance is not intended to repeal, annul or interfere with any easements, covenants, deed restrictions or agreements created prior to the effective date of this Ordinance.

Section 14. Use of Licensing Agreement.

Any provisions of this Ordinance, including the license term, may be modified in a written Licensing Agreement between the Town and an operator if the Town Board first determines that the Agreement will protect public health, safety and welfare at least as well as the protections provided by this Ordinance. The Town Board shall consider the information and conclusions provided by the Town's retained experts in making this determination.

Section 15. Effective Date

The Ordinance is effective on publication.

The Town Clerk shall properly publish this ordinance as required under Sec. 60.80 (2) of Wis. Statutes as a Class I Notice in a newspaper.

Adopted this 8 day of October, 2019.

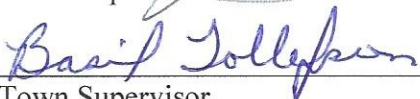
Signatures of Town Board:



Town Board Chair



Town Supervisor



Town Supervisor



Attest: Town Clerk