

## Chapter 12

### Public Safety

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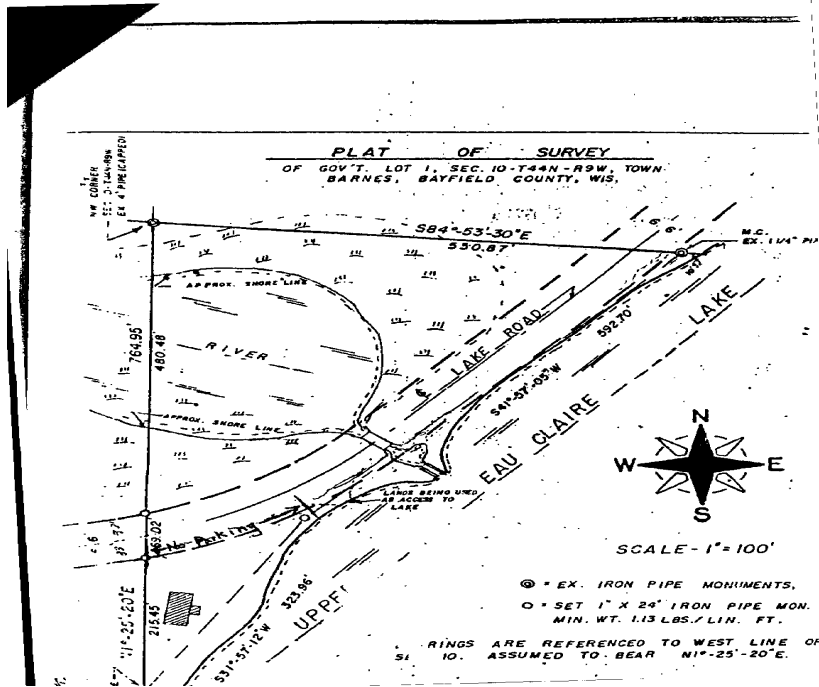
#### SEC. 12-1 PURPOSE.

- (a) The purpose of this ordinance is to maintain and ensure public safety.

#### SEC. 12-2 RESTRICTIONS ON PARKING.

- (a) No person shall park a motor vehicle along the south side of Lake Road adjacent to that part of Lot One (1), of Certified Survey Map No. 000607 recorded in Volume Four (4) of Certified Survey Maps, Pages 225-226, inclusive, located in Government Lot One (1), Section Ten (10), Township Forty-four (44) North, Range Nine (9) West, Bayfield County, State of Wisconsin, southwest of the parcel of real estate owned by the Town of Barnes commonly known as the public beach and boat landing. The area delineated as "No Parking" is as follows:

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(b) The Town of Barnes shall maintain signs suitable to give notice of the "No Parking" area as designated above.

**SEC. 12-3 OFFENSES OF PUBLIC SAFETY LAWS ADOPTED.**

The statutory provisions describing and defining regulations with respect to offenses for public safety for the peace and good order of the Town provided the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under the general penalty provisions of this Code of Ordinances in Sec. 1-7. Any future amendments, revisions or modifications of the Statutes incorporated herein by reference are intended to be made part of this Code.

Wis. Stat. Section	Title
941.20	Endangering Safety by Use of a Dangerous Weapon

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### **SEC. 12-4 FORFEITURES AND PENALTIES.**

The forfeitures and penalties provided for in this section shall be applicable to violations of Section 12-2 of this Ordinance in accordance with Chapter 1.

### **SEC. 12-5 HAZARDOUS WASTE**

#### SECTION I - TITLE/PURPOSE

The title of this ordinance is the Town of Barnes Waste Treatment, Disposal, and Storage Ordinance. The purpose of this ordinance is for the Town of Barnes 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 of Barnes.

#### SECTION II - AUTHORITY

The town board of the Town of Barnes has the specific authority under s. 289.22, Wis. Stats., and the general authority under its village powers to adopt this ordinance.

#### SECTION III - ADOPTION OF ORDINANCE

The town board of the Town of Barnes, by this ordinance, adopted on proper notice with a quorum and by a roll call vote by a majority of the town board present and voting, provides the authority for the Town of Barnes to regulate and permit the construction, maintenance, operation, closure, and long-term care of certain waste treatment, disposal, and storage facilities or sites in the Town of Barnes.

#### SECTION IV - DEFINITIONS

In this ordinance, the following definitions shall apply:

- A. "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,

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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 ch. 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.

- B. "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 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 re-melting purposes. Solid waste facility does not include 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. Solid waste facility does not include an auto junkyard or scrap metal salvage yard. Solid waste facility does not include any facility exempt from Town regulation by State law or regulation, including certain demolition facilities.
- C. "Solid waste disposal" means the discharge, deposit, injection, dumping, or placing of any solid waste into or on any land or water. This term does not include the transportation, storage, or treatment of solid waste.
- D. "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.
- E. "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.

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- F. "Hazardous waste" means any solid waste identified by the state Department of Natural Resources as hazardous under s. 291.05 (1), (2), or (4), Wis. stats.
- G. "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.
- H. "Town" means the Town of Barnes, Bayfield, County, Wisconsin.
- I. "Town board" means the board of supervisors for the Town of Barnes, Bayfield County, Wisconsin and includes designees of the board authorized to act for the board.
- J. "Town clerk" means the clerk of the Town of Barnes, Bayfield County, Wisconsin.
- K. "Wis. stats." means the Wisconsin Statutes, including successor provisions to cited statutes.

### SECTION V - 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 VI - 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 the premises in the town. The permit is not transferable from one person to another. The application for the permit shall, at minimum, contain the following:

1. The name of the applicant and the name of the agent for the applicant, if any.

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2. The address of the applicant.
3. The address and legal description of the premise for the facility or site and the current owner of the premises.
4. The age of the applicant, if a natural person not over the age of 18 years.
5. The type and use of the facility or site to be constructed, operated, maintained, closed, or provided long-term care at the premises.
6. The length of time in years for construction of the facility, if applicable.
7. All local approvals, licenses, or permits necessary for the applicant to obtain for the facility prior to any construction, maintenance, operation, closure, and long-term care.
8. All federal or state approvals, licenses, or permits necessary for the applicant to obtain for the facility prior to construction, maintenance, operation, closure, and long-term care.
9. The proposed length in years of operational time for actual disposal, treatment, or storage operations at the facility.
10. The current and proposed zoning and land use plan for the facility premises, if any.
11. 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.
12. The projected type, source, and amount of hazardous or toxic waste to be stored, treated, or disposed at the facility on an annual basis.
13. Copies of all feasibility reports and plan of operations submitted or to be submitted to the state Department of Natural Resources.
14. The financial security projected to be provided by applicant to insure compliance with the permits as issued and with any other approvals.
15. Any public nuisance or threats to the public health or safety known by applicant located at or near the proposed or current waste location.
16. Any other information regarding the construction, operation, closure or long-term care of the facility requested by the town in the application form.

### SECTION VII - EXEMPTIONS

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

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1. 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.
2. 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 county.
3. 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.
4. A farm facility on which only animal waste, resulting from the operation of that farm, is disposed at the facility.
5. 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.
6. 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.
7. Any demolition or other waste facility, including any land spreading of wood, ash, or sludge site exempt under s. 289.43, Wis. stats.
8. Any alcohol fuel production system exempt under s. 289.44, Wis. stats.
9. Any fruit and vegetable waste facility exempt under s. 289.445, Wis. stats.
10. Any recyclable material collection facility approved for collection or processing operations by the County of Bayfield, the town, or any responsible unit under s. 287.09, Wis. stats.
11. Any solid waste facility or hazardous waste facility or site that was permanently closed prior to the effective date of the ordinance.

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12. 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 as not to cause a public or private nuisance.
13. 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, container, or is stored in another way as not to cause public or private nuisance.
14. Any open container or other system used to burn non-toxic or non-hazardous material in a lawful manner and as not to cause a public nuisance in the town.

### SECTION VIII - SPECIFIC ORDINANCE/PERMIT PROVISIONS

1. No person shall 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.
2. No person shall be issued or reissued a permit under this ordinance who has failed to properly and fully comply and submit to the town clerk complete and truthful response on the application form developed and provided by the town.
3. No person shall 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:
  - a. Obtain and maintain for a proposed or existing facility or site all necessary approvals, licenses, or permits from the appropriate town, County of Bayfield, state, and federal agencies.
  - b. Comply with all conditions and restrictions attached by the town board to the permit issued under this ordinance by the town board.
  - c. 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



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the applicant or permittee at or near the existing site or facility upon notice of such public nuisance or threats by the town board.

4. The town board may, in order to prevent public nuisances, to protect the public health, and to 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 IX - 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 \$2,000 nor more than \$25,000, plus the application surcharges, assessments, and costs for each violation. Each day a violation exists or continues shall be considered 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 X - 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 of application, and to this end, the provisions of this ordinance are severable.

### SECTION XI - EFFECTIVE DATE

This Ordinance is effective on publication. The town clerk shall properly post or publish this ordinance as required under s. 60.80, Wis. stats.

### **SEC. 12-6 FIREWORKS**

#### SECTION I-TITLE/ PURPOSE

The title of this Ordinance is the Town of Barnes Fireworks Control Ordinance. The purpose of this Ordinance

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is to regulate, prohibit and provide penalties for the possession and use of specific fireworks.

### SECTION II-AUTHORITY

The Town Board of the Town of Barnes has the specific authority under ss.167.10 Wis. Stats and general authority under Village Powers to adopt the Ordinance.

### SECTION III-ADOPTION OF ORDINANCE

The Town Board of the Town of Barnes, by this Ordinance, adopted with a quorum and a roll call vote by a majority of the Town Board present and voting, provides the authority for the Town Board of the Town of Barnes to regulate, prohibit and penalize the use and possession of certain fireworks in the Town of Barnes.

### SECTION IV-DEFINITIONS

- A. "Fireworks" means anything manufactured, processed or packaged for exploding, emitting sparks or combustion, which does not have another common use, but does not include any of the following:
1. Fuel or a lubricant.
  2. A firearm cartridge or shotgun shell.
  3. A flare used or possessed or sold for use as a signal in an emergency or in the operation of a rail way, aircraft, watercraft or motor vehicle.
  4. A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
  5. A cap containing not more than one-quarter grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosives.
  6. A toy snake, which contains no mercury.
  7. A model rocket engine.
  8. Tobacco and a tobacco product.
  9. A sparkler on a wire or wood stick not exceeding 36 inches in length that is designed to produce audible or viable effects or to produce audible or visual effects.
  10. A device designed to spray out paper confetti or steamers and which contains less than one-quarter grain of explosive mixture.

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11. A fuseless device that is designed to produce audible or viable effects or audible and visible effects, and that contains less than one-quarter grain of explosive mixture.
12. A device that is designed primarily to burn pyrotechnic smoke-producing mixtures, at a controlled rate, and that produces audible or viable effects, or audible and visual effects.
13. A cylindrical fountain that contains one or more tubes and that is classified by the federal department of transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.
14. A cone fountain that is classified by the federal department of transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.

### SECTION V-COVERAGE

- A. No person in the Town of Barnes may sell or possess in the Town of Barnes with intent to sell fireworks, except:
  1. To a person holding a permit under this Ordinance.
  2. To a City, Village or Town; or
  3. For a purpose specified under this Ordinance.
- B. No person may possess or use fireworks in the Town of Barnes without a Town User's Permit issued by the chairperson of the Town of Barnes or his or her designee.
  1. No permits will be issued for the use of fireworks on the Town of Barnes property except by an approved licensed provider.
  2. If applying for a permit on someone else's property- rental, homeowners, resort, etc. - copy of insurance policy, must be provided by the property owner.
- C. Provision B does not apply to:
  1. The Town, but municipal fire and law enforcement officials shall be notified of the proposed use of fireworks at least two (2) days in advance.
  2. The possession or use of explosives in accordance with rules or general orders of the Department of Commerce.

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3. The disposal of hazardous substances in accordance with rules adopted by Department of Natural Resources.

4. The possession or use of explosive or combustible materials in any manufacturing process.

5. The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.

6. A possessor or manufacturer of explosives in possession of a license or permit under 18 USC 841 to 848 if the possession of the fireworks is authorized under the license or permit.

7. Except as provided in Paragraph C, the possession of fireworks in the Town of Barnes while transporting the fireworks to a City, Town or Village where the possession of the fireworks is authorized by permit or ordinance.

- D. Paragraph B applies to a person transporting fireworks under Paragraph C (7), if, in the course of transporting the fireworks through the Town of Barnes, the person remains in the Town of Barnes for a period of at least twelve (12) hours.
- E. A permit under this Ordinance may be issued only to the following:
1. A public authority.
  2. A fair association.
  3. An amusement park.
  4. A park board.
  5. A civic organization.
  6. A group of resident or nonresident individuals.
  7. An agricultural producer for the protection of crops from predatory birds or animals.
- F. A person issued a permit for crop protection in the Town of Barnes shall erect appropriate warning signs disclosing the use of fireworks for crop protection.
- G. The person issuing permit for the Town of Barnes under this subsection will require an indemnity bond with good and sufficient sureties or policy of liability insurance for the payment of all claims that may arise by reason of injuries to person or property from the handling, use or discharge of fireworks under the permit. The bond or policy shall be taken in the name of the Town

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and any person injured thereby may bring an action on the bond on policy in the person's own name to recover the damage the person has sustained, but the aggregate liability of the surety or insurer to all persons shall not exceed the amount of the bond or policy. The bond or policy, together with copy of the permit, shall be filed in the Office of the Clerk of the town.

- H. A permit under this Ordinance shall specify all of the following:
  - 1. The name and address of the permit holder.
  - 2. The date on and after which fireworks may be purchased.
  - 3. The kind and quantity of fireworks which may be purchased.
  - 4. The date and location of permitted use.
  - 5. Other special conditions prescribed by the Town Chair, Town Board or their designee.
- I. A copy of a permit under this subsection shall be given to the Town of Barnes fire or law enforcement official at least two (2) days before the date of authorized use.
- J. A permit under this Ordinance may not be issued to a minor.

### SECTION VI-STORAGE, HANDLING AND IGNITING

- A. No wholesaler, dealer or jobber may store or handle fireworks in premises in the Town of Barnes unless the premise are equipped with fire extinguishers approved by the Fire Chief or his or her designee of the Town of Barnes where the premises are located.
- B. No person may smoke where fireworks are stored or handled.
- C. A person who stores or handles fireworks shall notify the Fire Chief of the Town of the location of the fireworks.
- D. No wholesaler, dealer or jobber may store fireworks within fifty (50) feet of a dwelling.
- E. No person may store fireworks within fifty (50) feet of a dwelling where gasoline or volatile liquid is dispensed in quantities exceeding one (1) gallon.

### SECTION VII-PARENTAL/GUARDIAN LIABILITY

A parent, foster parent, treatment foster parent, family-operated group home parent or legal guardian of a

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minor who consents to the use of fireworks by a minor is liable for damages caused by the minor's use of the fireworks.

### SECTION VIII-MUNICIPAL LIABILITY

The Town or any committee, official or employee of the Town of Barnes is not civilly liable for damage to any person or property caused by fireworks for the sole reason that the Town of Barnes issued by its Town Chair or his or her designees a permit in accordance with the use requirements and conditions established and any applicable requirements authorized under the Ordinance that authorized that purchase, possession or use of the fireworks in the Town of Barnes.

### SECTION IX-PENALTIES

Violation of this ordinance shall be in accordance with the schedule of deposit, which are now in existence and as may be amended from time to time in the future, plus any applicable assessments, costs, fees and penalty enhances now in force in the Bayfield County Circuit Court, or as enforced in the future.

### SECTION X-SEVERABILITY

If any provision of this Ordinance of 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 of application, and to this end, the provisions of this Ordinance are severable.

### SECTION XI-EFFECTIVE DATE

This Ordinance is effective upon publication.

The Town Clerk shall properly post or publish this ordinance as required under ss. 60.80, Wis. Stats.

### **SECTION 12-7 SUPERCEDED BY CHAPTER 10 AS UPDATED IN 2019**