

## CHAPTER 4

### Holding Tanks

<i>Section Number</i>	<i>Title</i>	<i>Ordinance Number</i>	<i>Date of Ordinance</i>
8-4-1	Regulation of Holding Tanks		

#### SEC. 8-4-1 REGULATION OF HOLDING TANKS.

- (a) **Prohibited.** Holding tanks for new residential construction shall be prohibited in the Town of Caledonia, except as provided in Subsection (b).
- (b) **Variance Procedure.**
- (1) Request for Review of Initial Determination. Any person who has been prohibited from installing and using a holding tank may request a review of such determination by the Town Plan Commission in accordance with Section 4-1-7 of the Code of Ordinances.
  - (2) Review of Determination. The Commission shall review the initial determination within forty (40) days of receipt of a request for review. The time for review may be extended by agreement with the person aggrieved. Such review shall proceed in accordance with Section 4-1-8 of the Code of Ordinances. The Commission may affirm, reverse or modify the initial determination and shall mail or deliver to the person aggrieved a copy of the Commission's decision on review which shall state the reasons for such decision. The decision shall advise the person aggrieved of the right to appeal that decision within thirty (30) days to the Town Board, by filing with the Town Clerk a written Notice of Appeal.
  - (3) Hearing on Administrative Appeal. The Town Board shall provide the appellant a hearing on an appeal, in accordance with Section 4-1-10 of the Code of Ordinances, within thirty (30) days of receipt of a Notice of Appeal and shall serve the appellant with notice of such hearing by mail or personal service at least ten (10) days before such hearing. The time for a hearing on appeal may be extended by agreement with the person aggrieved.
  - (4) Final Determination. Within twenty (20) days of completion of the hearing and the filing of briefs, if any, the Town Board shall mail or deliver to the appellant its written determination stating the reasons therefor. Such determination shall be a final determination.
  - (5) Judicial Review. Any party to a proceeding resulting in a final determination may seek review thereof by writ of certiorari within thirty (30) days of receipt of the final determination.
  - (6) Standard for Issuance of Variance. The Commission upon review and the Town Board upon appeal are authorized in specific cases to issue a variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, so that the spirit of the ordinance shall be observed,

public safety and welfare secured and substantial justice done. The burden is on the property owner to establish that unnecessary hardship exists which will support the issuance of a variance. The Town Clerk shall inform the Wisconsin Department of Commerce in writing of each variance granted. Subsection 8-4-1(d) shall apply to any such variance.

- (c) Any person who has obtained a holding tank permit pursuant to the provisions of Section 8-4-1 (b), (c), (d), (e), (f) and (g) as the same existed prior to the repeal on June 16, 1998, shall comply with all of the provisions of such subsections, which are incorporated herein by reference, the same as if in full force and effect; provided, however, that holders of any such permits for holding tanks under former Section 8-4-1 which have not been installed shall file plans for the holding tank system for which a permit was granted by August 1, 1999, and shall commence construction of such system within one (1) year thereafter, or the permit shall terminate.
- (d) **Installation Restrictions.** As a precondition to the installation of a holding tank in the Town of Caledonia, the landowner shall enter into an Owner-Town Agreement concerning procedures for installing, maintaining, and emptying such holding tank. Such owner shall cause the agreement to be recorded with the office of the Register of Deeds for Racine County, which shall constitute an agreement running with the land and binding upon the owner, his or her heirs, successors, administrators and assigns. The owner shall agree:
- (1) To bind any future owner of the property served by the holding tank to enter into a like agreement with the Town. In the event of transfer of the property, the new owner shall enter into a like agreement with the Town.
  - (2) To pay all fees and all inspection fees as are properly established by legitimate appropriate authority.
  - (3) To conform to all applicable laws, ordinances, rules and regulations relating to the installation, construction, operation, and maintenance of holding tanks.
  - (4) Not to use such holding tank before the installation of the holding tank is completed and related equipment and materials are inspected on-site and approved by the County Sanitarian and the Town Plumbing Inspector.
  - (5) To have the contents of the holding tank removed, hauled, and disposed of by a hauler licensed by the State of Wisconsin in accord with all applicable state and local laws, ordinances, rules and regulations. Such hauler shall forward to the Town a copy of the specifics of each pumping or servicing with seven (7) days of such pumping or servicing.
  - (6) To file with the Town copies of all reports required by the Wisconsin Department of Commerce concurrently with the filing with such agency.
  - (7) To allow any authorized person of the Town to inspect the holding tank and the premises at all reasonable times to determine that the holding tank and all related items and equipment are being properly maintained and that the owner is complying with all the terms of the agreement.
  - (8) In the event the Town Plumbing Inspector, the Town Health Officer or a member of the County Sanitarian's office determines that it is reasonably necessary to have the holding tank pumped, to cause the same to be pumped as soon as possible at the owner's expense and no later than forty-eight (48) hours after such order is issued.
  - (9) In the event the owner shall fail to cause the holding tank to be pumped out or necessary maintenance, including replacement, to be performed, that the Town may

cause the holding tank to be pumped out and cause any necessary maintenance to be done. The owner shall agree to pay all costs for said service or work to the Town on demand; and if such payment is not made to the Town within thirty (30) days, all unpaid costs may be carried on to the tax rolls of the Town of Caledonia as a special assessment pursuant to Sec. 66.60(16), Wis. Stats.

- (10) In the event a public sanitary sewer line is constructed within three hundred (300) feet of the building served by the holding tank by the Town or any public authority, that within one (1) year thereafter the owner shall connect to such sewer line at his or her expense, making no claim against the Town or anyone else because of the existence of the holding tank or the holding tank agreement.
  - (11) That the Town may amend the terms of the agreement by amendment of this Chapter, provided that the owner or his successor in interest shall be notified at least thirty (30) days prior to such ordinance amendment and shall be given an opportunity to submit oral or written objections or comments.
  - (12) If any part of the agreement be superseded by a higher authority or declared invalid by competent and authorized legal decision, that all other items of the agreement shall remain in full force and effect.
- (e) **Release of Bond.** Any person who installed a holding tank and posted a bond pursuant to the prior provisions of this Chapter may have the bond released upon consenting to having any costs subject to such bond being carried on to the tax rolls of the Town of Caledonia as a special assessment pursuant to Sec. 66.60(16) of the Wisconsin Statutes.
  - (f) **Penalties.** Any person who shall cause or allow any unlawful pumping or damage to a holding tank, its alarm system, or any other element of the sewage disposal system shall be subject to a forfeiture of Five Hundred Dollars (\$500.00) for the first offense and One Thousand Dollars (\$1,000.00) for any subsequent second offense. Following conviction of a third offense, the residence shall be declared uninhabitable.