

TITLE 8

Health and Sanitation

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CHAPTER 1

Health and Sanitation

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SEC. 8-1-1 SMOKING PROHIBITED.¹

The following terms are defined for the purposes of this section:

(a) **Definitions.**

- (1) “Assisted living facility” means a community - based residential facility, a residential care apartment complex, or an adult family home, as defined in Sec. 50.01, Wis. Stats.
- (2) “Child care center” means a facility operated by a child care provider that provides care and supervision for four (4) or more children under seven (7) years of age for less than twenty-four (24) hours a day.
- (3) “Educational facility” means any building used principally for educational purposes in which a school is located or a course of instruction or training program is offered that has been approved or licensed by a state agency or board.

¹ Created by Ordinance No. 11 of 2010. Enacted on July 13, 2010.

- (4) Notwithstanding Sec. 101.01(5), Wis. Stats., “employment” means any trade, occupation, or process of manufacture or any method of carrying on such trade, occupation, or process of manufacture in which any person may be engaged.
- (5) “Enclosed indoor area”, means all space between a floor and a ceiling that is bounded by walls, doors, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent. A 0.011 gauge screen with an 18 by 16 mesh count is not a wall.
- (6) “Inpatient health care facility” means a hospital, as defined in Sec. 50.33 (2), Wis. Stats., a county home established under Sec. 49.70, Wis. Stats., a county infirmary established under Sec. 49.72, Wis. Stats., a nursing home, as defined in Sec. 50.01 (3), Wis. Stats., a hospice, as defined in Sec. 50.90 (1), Wis. Stats., a Wisconsin veterans home under Sec. 45.50, Wis. Stats., or a treatment facility.
- (7) “Lodging establishment” means any of the following:
 - a. A bed and breakfast establishment.
 - b. A hotel.
 - c. A tourist rooming house, including any lodging place or tourist cabin or cottage where sleeping accommodations are offered for pay to tourists or transients.
- (8) “Person in charge” means the person, or his or her agent, who ultimately controls, governs or directs the activities aboard a public conveyance or at a location where smoking is prohibited or regulated under this section.
- (9) “Place of employment,” notwithstanding Sec. 101.01 (11), Wis. Stats., means any enclosed indoor area that employees normally frequent during the course of employment, including an office, a work area, an elevator, an employee lounge, a restroom, a conference room, a meeting room, a classroom, a hallway, a stairway, a lobby, a common area, a vehicle, or an employee cafeteria.
- (10) “Private club” means a facility used by an organization that limits its membership and is organized for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose.

- (11) "Public conveyance" means a mass transit vehicle, either publically or privately owned, a school bus, or any other device by which persons are transported, for hire, on a highway or by rail, water, or air, but does not include such a device while providing transportation in interstate commerce.
- (12) "Public place" means any enclosed indoor area that is open to the public, regardless of whether a fee is charged or a place to which the public has lawful access or may be invited.
- (13) "Restaurant" means an establishment as defined in Sec. 254.61 (5), Wis. Stats.
- (14) "Retail establishment" means any store or shop in which retail sales is the principal business conducted.
- (15) "Smoking" means burning or holding, or inhaling or exhaling smoke from, any of the following items containing tobacco:
 - a. A lighted cigar.
 - b. A lighted cigarette.
 - c. A lighted pipe.
 - d. Any other lighted smoking equipment.
- (16) "Sports arena" means any stadium, pavilion, gymnasium, swimming pool, skating rink, bowling center, or other building where spectator sporting events are held.
- (17) "State institution" means a mental health institute, as defined in Sec. 51.01 (12), Wis. Stats., a center for the developmentally disabled, as defined in Sec. 51.01 (3), Wis. Stats., or a secure mental health facility at which persons are committed under Sec. 980.06, Wis. Stats.
- (18) "Tavern" means an establishment, other than a restaurant, that holds a "Class B" intoxicating liquor license or Class "B" fermented malt beverages license.
- (19) "Tobacco product" means any form of tobacco prepared in a manner suitable for smoking but not including a cigarette.
- (20) "Treatment facility" means a publically or privately operated inpatient facility that provides treatment of alcoholic, drug dependent, mentally ill, or developmentally disabled persons.

(b) **Prohibition Against Smoking.**

- (1) Except as provided in sub. (d) no person may smoke in any of the following enclosed indoor areas:
 - a. Child care centers.
 - b. Educational facilities.
 - c. Inpatient health care facilities.
 - d. Theaters.
 - e. Restaurants.
 - f. Taverns.
 - g. Private clubs.
 - h. Retail establishments.
 - i. Common areas of multiple - unit residential properties.
 - j. Lodging establishments.
 - k. State, county, city, village, or town buildings.
 - l. All enclosed indoor areas, other than those listed in subds. a. to k., that are places of employment or that are public places.
- (2) No person may smoke anywhere on the premises of a child care center when children who are receiving child care services are present.
- (3) No person may smoke in any of the following, regardless of whether it is an enclosed indoor area:
 - a. A sports arena.
 - b. A bus shelter.
 - c. A public conveyance.

(bb) **Outdoor Smoking on City Property.**² No person may smoke on property owned or operated by the City of Plymouth within twelve (12) feet from any entrance to any enclosed place owned by the City. Any person in charge of a restaurant, tavern, private club or retail establishment located in an area subject to this section may designate an outside area that is a reasonable distance from any entrance to the restaurant, tavern, private club, or retail establishment where customers, employees, or persons associated with the restaurant, tavern, private club or retail establishment may smoke.

(c) **Responsibility of Persons in Charge.**

- (1) No person in charge may allow any person to smoke in violation of sub. (b) above, at a location that is under the control or direction of the person in charge.

²Ordinance No. 17 of 2013, enacted on November 12, 2013, amended Section 8-1-1 to include (bb).

- (2) A person in charge may not provide matches, ashtrays, or other equipment for smoking at the location where smoking is prohibited.
- (3) A person in charge shall make reasonable efforts to prohibit persons from smoking at a location where smoking is prohibited by doing all of the following:
 - a. Posting signs as specified by the Wisconsin Department of Commerce, setting forth the prohibition and providing other appropriate notification and information concerning the prohibition.
 - b. Refusing to serve a person, if the person is smoking in a restaurant, tavern, or private club.
 - c. Asking a person who is smoking to refrain from smoking and, if the person refuses to do so, asking the person to leave the location.
- (4) If a person refuses to leave a location after being requested to do so as provided in par. (3)c., the person in charge shall immediately notify an appropriate law enforcement agency of the violation.
- (5) A person in charge may take measures in addition to those listed in pars (3) and (4) to prevent persons from being exposed to others who are smoking or to further ensure compliance with this section.

(d) **Exceptions.**

The prohibition against smoking in Subsection (b)(1) does not apply to the following:

- a. A private residence.
- b. A room used by only one person in an assisted living facility as his or her residence.
- c. A room in an assisted living facility in which 2 or more persons reside if every person who lives in that room smokes and each of those persons has made a written request to the person in charge of the assisted living facility to be placed in a room where smoking is allowed.

(e) **Outdoor Smoking Areas.** Any person in charge of a restaurant, tavern, private club, or retail establishment may designate an outside area that is a reasonable distance from any entrance to the restaurant, tavern, private club, or retail establishment where customers, employees, or persons associated with the restaurant, tavern, private club, or retail establishment may smoke.

(f) **Penalties.**

- (1) Any person who violates sub. (b) shall be subject to a forfeiture of thirty dollars \$30.00 for the first offense and \$100.00 for any subsequent offenses committed within the same year.
- (2) Any person in charge who violates sub. (c) shall be subject to a forfeiture of \$50.00 for the first offense and \$100 for any subsequent offenses committed within the same year.
- (3) No person in charge may be required under par. (2) to forfeit more than \$100.00 in total for all violations of sub.(c) occurring on a single day.

(g) **Injunction.** Notwithstanding Sec. 165.60, Wis. Stats., state or local officials or any affected party may institute an action in any court with jurisdiction to enjoin repeated violations of this section.

SEC. 8-1-2³ SYNTHETIC CANNABINOID PROHIBITED.

(a) **Possession, Use, and Sale are Illegal.** It shall be illegal for any person to use, possess, purchase, attempt to purchase, sell, publically display for sale or attempt to sell, give, or barter any one or more of the following chemicals whether under the common street or trade names of “Spice”, “K2”, “Genie”, “Yucatan Fire”, “fake” or “new” marijuana, or by any other name, label, or description:

1. Salviadinorum or salvinorum A; all parts of the plant presently classified botanically as salvia divinorum, whether growing or not, the seeds thereof; any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture or preparation of such plant, its seeds or extracts;
2. (6aR,10aR)-9-(hydroxymethyl)-6, 6dimethyl-3-(2methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[c]chromen-1- of some trade or other names: HU-210;
3. 1-Pentyl-3-(1-naphthoyl) indole-some trade or other names: JWH-018\spice;
4. 1-Butyl-3-(1naphthoyl) indole-some trade names or other names: JWH-073;
5. 1-(3{trifluoromethylphenyl}) piperazine-some trade or other names: TFMPP;

³ Created by Ordinance No. 18 of 2010. Enacted on December 14, 2010.

6. or any similar structural analogs.

(b) **Medical or Dental Use Allowed.** Acts otherwise prohibited under subsection (a) shall not be unlawful if done by or under the direction or prescription of a licensed physician, dentist, or other medical health professional authorized to direct or prescribe such acts, provided that such use is permitted under state and federal laws.

(c) **Penalties.** Any adult person violating this ordinance shall be subject to a forfeiture of not less than \$100.00 nor more than \$500.00, exclusive of costs, and upon failure to pay the same shall be confined in the county jail for not more than thirty (30) days.

SEC. 8-1-3 KEEPING OF LIVESTOCK.

(a) **Livestock Prohibited.** The keeping, harboring, feeding or possession of any mink, raccoon, muskrats, foxes , skunks, swine, goats, sheep, or any ducks, cows, chickens, geese, or other fowl, within the City limits is hereby declared to be a menace to health and nuisance. No person shall keep, harbor, feed, or possess any of the animals or fowl mentioned in this Section within the limits of the City. This Section does not affect the City in its governmental capacity from maintaining any animals at a public zoo or park, nor shall it apply to the exhibition of any animals at any County Fair or similar public exposition held in the City, nor to properly zoned premises in compliance with City ordinances.

(b) **Animals Excluded From Food Handling Establishments.** No person shall take or permit to remain any dog, cat or other live animal on or upon any premises where food is sold, offered for sale or processed for consumption by the general public.

SEC. 8-1-4 DEPOSIT OF DELETERIOUS SUBSTANCES PROHIBITED.

No person shall deposit or cause to be deposited in any public street or on any public ground or on any private property not his own any refuse, garbage, litter, waste material or liquid or any other objectionable material or liquid. When any such material is placed on the person's own private property, it shall be properly enclosed and covered so as to prevent the same from becoming a public nuisance.

SEC. 8-1-5 DESTRUCTION OF NOXIOUS WEEDS.

(a) The Mayor shall annually on or before May 15th publish as required by state law a notice that every person is required by law to destroy all noxious weeds on lands in the City which he own occupies or controls. A joint notice with other towns or municipalities may be utilized.

(b) If the owner or occupant shall neglect to destroy any weeds as required by such notice, then the Weed Commissioner of the City shall give five (5) days' written notice by mail to the owner or occupant of any lands upon which the weeds shall be growing to the effect that the said Weed Commissioner after the expiration of the five (5) day period will proceed to destroy or cause to be destroyed all such weeds growing upon said lands and that the cost thereof will be assessed as a tax upon the lands upon which such weeds are located under the provisions of Sec. 66.0407 of the Wisconsin Statutes. In case the owner or occupant shall further neglect to comply within such five (5) day notice, then the Weed Commissioner shall destroy such weeds or cause them to be destroyed in the manner deemed to be the most economical method and the expense thereof, including the cost of billing and other necessary administrative expenses, shall be charged against such lots and be collected as a special tax thereon.

(c) As provided for in Sec. 66.0407, Wis. Stats., the City shall require that all noxious weeds shall be destroyed prior to the time in which such plants would mature to the bloom or flower state. The growth of noxious weeds in excess of eight (8) inches in height from the ground surface shall be prohibited within the City corporate limits. Noxious weeds shall include any weed, grass or similar plant growth which, if allowed to pollinate, would cause or produce hay fever in human beings or would cause a skin rash through contact with the skin. Noxious weeds, as defined in this Section and in Section 8-1-7, shall include but not be limited to the following:

Cirsium Arvense (Canada Thistle)
Ambrosia artemisiifolia (Common Ragweed)
Ambrosia trifida (Great Ragweed)
Euphorbia esula (Leafy Spurge)
Convolvulus arvensis (Creeping Jenny) (Field Bind Weed)
Tragopogon dubius (Goat's Beard)
Rhus radicans (Poison Ivy)
Cirsium vulgare (Bull Thistle)
Pastinaca sativa (Wild Parsnip)
Arctium minus (Burdock)
Xanthium strumarium (Cocklebur)
Amaranthus retroflexus (Pigweed)
Chenopodium album (Common Lambsquarter)
Rumex Crispus (Curled Dock)
Cannabis sativa (Hemp)
Plantago lanceolata (English Plantain)

Noxious grasses, as defined in this Section and in Section 8-1-7, shall include but not be limited to the following:

Agrostia alba (Redtop)
Dactylis glomerata (Orchard)

Phleum pratensis (Timothy)
Poa pratensis (Kentucky Blue)
Sorghum halepense (Johnson)
Setaria (Foxtail)

Noxious weeds are also the following plants and other rank growth:

Ragweed
Thistles
Smartweed
Dandelions (over 10 inches in height) Milkweed (over 10 inches in height)

State Law Reference: Sec. 66.0407, Wis. Stats.

SEC. 8-1-6 REGULATION OF NATURAL LAWNS.

(a) **Natural Lawns Defined.** Natural lawn as used in this Section shall include common species of grass and wild flowers native to North America which are designed and purposely cultivated to exceed eight (8) inches in height from the ground. Specifically excluded in natural lawns are the noxious grasses and weeds identified in Section 8-1-5 of this Chapter. The growth of a natural lawn in excess of eight (8) inches in height from the ground surface shall be prohibited within the City corporate limits unless a Natural Lawn Management Plan is approved and a permit is issued by the City as set forth in this Section. Natural lawns shall not contain litter or debris and shall not harbor undesirable wildlife.

(b) **Natural Lawn Management Plan Defined.**

- (1) Natural Lawn Management Plan as used in this Section shall mean a written plan relating to the management and maintenance of a lawn which contains a legal description of lawn upon which the planted grass will exceed eight (8) inches in length, a statement of intent and purpose for the lawn, a detailed description of the vegetational types, plants and plant succession involved, and the specific management and maintenance techniques to be employed.
- (2) Property owners who wish to plant and cultivate a natural lawn must submit every two (2) years their written plan and related information on the form provided by the City. "Property Owner" shall be defined to include the legal title holder and/or the beneficial owner of any such lot according to most current City records. Natural Lawn Management Plans shall only indicate the planting and cultivating of natural lawns on property legally owned by the property owner. Applicants are strictly prohibited from developing a natural lawn on any City-owned property including street rights-of-way. This shall include at a minimum property located

between the sidewalk and the street or a strip not less than ten (10) feet adjacent to the street where there is no sidewalk whether the area is under public or private ownership. In addition, natural lawns shall not be permitted within ten (10) feet of the abutting property owner's property unless waived in writing by the abutting property owner on the side so affected. Such waiver is to be affixed to the Lawn Management Plan.

- (3) Any subsequent property owner who abuts an approved natural lawn may revoke the waiver thereby requiring the owner of the natural lawn to remove the natural lawn that is located in the ten (10) foot section abutting the neighboring property owner. Such revocation shall be put in writing and presented to the City Clerk-Treasurer by the subsequent abutting property owner. Upon receiving the written request to revoke the original waiver, the Common Council shall contact the owner of the approved natural lawn and direct the owner to remove the natural lawn located in the ten (10) foot section abutting the neighboring property owner. The Common Council shall revise the approved Natural Lawn Management Permit accordingly. The owner of the approved natural lawn shall be required to remove the ten (10) foot section abutting the neighboring property owner within twenty (20) days of receipt of the written notification from the City provided the notification is received sometime between May 1 and November 1. Property owners who receive notification from the City between November 1 and April 30 shall be required to remove the ten foot section abutting the neighboring property owner no later than May 20 following receipt of the notification.

(c) **Application Process.**

- (1) Property owners interested in applying for permission to establish a natural lawn shall obtain and complete an application form available from the City Clerk-Treasurer. The completed application shall include a Natural Lawn Management Plan. Upon submitting a completed application, a Twenty-five Dollar (\$25.00) non-refundable filing fee will be assessed by the City. Upon receiving payment, copies of the completed application shall be mailed by the City to each of the owners of record, as listed in the Office of the City Assessor, who are owners of the property situated wholly or in part within three hundred (300) feet of the boundaries of the properties for which the application is made. If within fifteen (15) calendar days of mailing the copies of the complete application to the neighboring property owners the City receives written objections from fifty-one percent (51%) or more of the neighboring property owners, the City Clerk-Treasurer shall immediately deny

the application. Neighboring property owners shall be defined as all those property owners who are located within three hundred (300) feet of the proposed natural lawn site.

- (2) If the property owner's application is in full compliance with the Natural Lawn Management Plan requirements and less than fifty-one percent (51%) of the neighboring property owners provide written objections, the City Clerk-Treasurer shall issue a permit to install a natural lawn. Such permit shall be for two (2) years.

(d) **Application For Appeal.** The property owner may appeal the City Clerk-Treasurer's decision to deny the natural lawn permit request to the Common Council at an open meeting. All applications for appeal shall be submitted within fifteen (15) calendar days of the notice of denial of the Natural Lawn Management Plan. The decision rendered by the Common Council shall be final and binding.

(e) **Safety Precautions For Natural Grass Areas.**

- (1) When, in the opinion of the Fire Chief, the presence of a natural lawn may constitute a fire or safety hazard due to weather and/or other conditions, the Fire Chief may order the cutting of natural lawns to a safe condition. As a condition of receiving approval of the natural lawn permit, the property owner shall be required to cut the natural lawn within the three receiving written direction from the Fire Chief.
- (2) Natural lawns shall not be removed through the process of burning unless stated and approved as one of the management and maintenance techniques in the Lawn Management Plan. The Fire Chief shall review all requests to burn natural lawns and shall determine if circumstances are correct and all applicable requirements have been fulfilled to insure public safety. Burning of natural lawns shall be strictly prohibited unless a written permit to burn is issued by the Fire Chief. The Fire Chief shall establish a written list of requirements for considering each request to burn natural lawns, thereby insuring the public safety. In addition, the property owner requesting permission to burn the natural lawn shall produce evidence of property damage and liability insurance identifying the City as a party insured. A minimum amount of acceptable insurance shall be Three Hundred Thousand Dollars (\$300,000.00).

(f) **Revocation Of An Approved Natural lawn Management Plan Permit.** The Mayor or Director of Public Works, upon the recommendation of the Weed Commissioner, shall have the authority to revoke an approved Natural Lawn

Management Plan Permit if the owner fails to maintain the natural lawn or comply with the provisions set forth in this Section. Notice of intent to revoke an approved Natural Lawn Management Plan Permit shall be appealable to the Common Council. All applications for appeal shall be submitted within fifteen (15) calendar days of receipt of the written Notice of Intent to revoke the approved Natural Lawn Management Plan. Failure to file an application for appeal within the fifteen (15) calendar days shall result in the revocation of the Natural Lawn Management Plan Permit. All written applications for appeal filed within the fifteen (15) calendar day requirement shall be reviewed by the Common Council in an open meeting. The decision rendered by the Common Council shall be final and binding.

(g) **Public Nuisance Defined - Abatement After Notice.**

- (1) The growth of a natural lawn as defined in this Section shall be considered a public nuisance unless a Natural Lawn Management Plan has been filed and approved and a permit is issued by the City as set forth in this Section. Violators shall be served with a notice of public nuisance by certified mail to the last-known mailing address of the property owner.
- (2) If the person so served with a notice of public nuisance violation does not abate the nuisance within ten (10) days, the Weed Commissioner may proceed to abate such nuisance, keeping an account of the expense of the abatement, and such expense shall be charged to and paid by such property owner. Notice of the bill for abatement of the mailed to the owner of the premises and shall be payable within ten (10) calendar days from receipt thereof. Within sixty (6) days after such costs and expenses are incurred and remain unpaid, the City Clerk-Treasurer shall enter those charges onto the tax roll as a special tax as provided by State statute.
- (3) The failure of the City Clerk-Treasurer to record such claim or to mail such notice or the failure of the owner to receive such notice shall not affect the right to place the City expense on the tax rolls for unpaid bills for abating the public nuisance as provided for in this Section.

(h) **Penalty.**

- (1) Any person, firm or corporation which does not abate the nuisance within the required time period or who otherwise violates the provisions of this Section shall be subject to the general penalty found in Section 1-1-7.
- (2) In addition to any penalties herein provided, the City may issue stop work orders upon owners of lots where work is unfinished under a previously issued building permit for any violation of this Section.

SEC. 8-1-7 REGULATION OF LENGTH OF LAWN AND GRASSES.

(a) **Purpose.** This Section is adopted due to the unique nature of the problems associated with lawns, grasses and noxious weeds being allowed to grow to excessive length in the City of Plymouth.

(b) **Public Nuisance Declared.** The Common Council finds that lawns, grasses and noxious weeds on lots or parcels of land not zoned agricultural which exceed eight (8) inches in length adversely affect the public health and safety of the public in that they tend to emit pollen and other discomforting bits of plants, constitute a fire hazard and a safety hazard in that debris can be hidden in the grass, interferes with the public convenience and adversely affects property values of other land within the City. For that reason, any lawn, grass or weed on a lot or other parcel of land which exceeds eight (8) inches in length is hereby declared to be a public nuisance, except for property located in a designated floodplain area and/or wetland area, where the lawn, grass or weed is part of a natural lawn approved pursuant to Section 8-1-6 above or where the property is zoned residential.

(c) **Nuisances Prohibited.** No person, firm or corporation shall permit any public nuisance as defined in Subsection (b) above to remain on any premises owned or controlled by him within the City.

(d) **Inspection.** The Weed Commissioner or his designee shall inspect or cause to be inspected all premises and places within the City to determine whether any public nuisance as defined in Subsection (b) above exists.

(e) **Abatement of Nuisance.**

- (1) If the Weed Commissioner shall determine with reasonable certainty that any public nuisance as defined in Subsection (b) above exists, he shall immediately cause written notice to be served that the City proposes to have the lot grass or lawn cut so as to conform with this Section and Section 8-1-5.
- (2) The notice shall be served at least five (5) days prior to the date of the hearing and shall be mailed or served on the owner of the lot or parcel of land or, if he is not known and there is a tenant occupying the property, then to the tenant, of the time and place at which the hearing will be held.

(f) **Due Process Hearing.** If the owner believes that his grasses or weeds are not a nuisance, he may request a hearing before the Common Council. The request for said hearing must be made in writing to the City Clerk-Treasurer's office within the five (5) days set forth in the Weed Commissioner's notice. Upon application for the hearing, the property owner must deposit a \$25.00 bond. If a decision is rendered in the property owner's favor, the \$25.00 will be returned to

the property owner. If the property owner fails to appear for the hearing or if the decision is rendered against the property owner, the deposit shall be forfeited and applied to the cost of City personnel abating the nuisance, if necessary. When a hearing is requested by the owner of the property, a hearing by the Common Council shall be held within seven (7) days from the date of the owner's request. The property in question will not be mowed by the City until such time as the hearing is held by the Council. At the hearing, the owner may appear in person or by his attorney, may present witnesses in his own behalf and may cross-examine witnesses presented by the City as well as subpoena witnesses for his own case. At the close of the hearing, the Common Council shall make its determination in writing specifying its findings, facts, and conclusions. If the Common Council determines that a public nuisance did exist, the Council shall order the Weed Commissioner to mow the property in question unless the property has been mowed by the owner within forty-eight (48) hours of the Common Council's decision. If the owner does not abate the nuisance within the described forty-eight (48) hours, the Weed Commissioner shall cause the same nuisance to be abated and cost in excess of the forfeited fee assessed accordingly.

(g) **City's Option To Abate Nuisance.** In any case where the owner, occupant or person in charge of the property shall fail to cut his lawn, grass or weeds as set forth above, then, and in that event, the City may elect to cut said lawn, grass or weeds as follows:

- (1) The written notice required in Subsection (e) shall inform said person that in the event of his failure to abate the nuisance within the prescribed time, the City shall abate the same and the cost thereof shall be assessed to the property owner as a special charge.
- (2) The City shall cut or cause to be cut all grass and weeds from the subject's property and shall charge the expenses of so doing at a rate as established by resolution by the Common Council. The charges shall be set forth in a statement to the City Clerk-Treasurer who, in turn, shall mail the same to the owner, occupant or person in charge of the subject premises. If said statement is not paid in full within thirty (30) days thereafter, the City Clerk-Treasurer shall enter the charges in the tax roll as a special tax against said lot or parcel of land, and the same shall be collected in all respects like other taxes upon real estate, or as provided under Sec. 66.0907, Wisconsin Statutes.

SEC. 8-1-8 COMPULSORY CONNECTION TO SEWER AND WATER.

(a) **When Required.** Whenever a sewer or water main becomes available to any building used for human habitation, the Building Inspector, Utilities Manager or Health Officer shall notify the owner or his agent in writing in the manner

prescribed by the Wisconsin Statutes or by registered mail addressed to the last known address of the owner or his agent.

(b) **Contents of Notice.** The notice required by this Section shall direct the owner or his agent to connect the building to such main or mains in the manner prescribed by the Building Inspector, Utilities Manager or Health Officer and to install such facilities and fixtures as may be reasonably necessary to permit passage of sewage incidental to such human habitation into the sewerage system and to furnish an adequate supply of pure water for drinking and to prevent creation of a health nuisance.

(c) **City May Cause Connection at Expense of Owner.** If the owner or his agent fails to comply with the notice of the Building Inspector, Utilities Manager or Health Officer within ten (10) days of service or mailing thereof, the Building Inspector, Utilities Manager or Health Officer may cause connection to be made and the expense thereof shall be assessed as a special tax against the property.

(d) **Installment Option.** The owner or his agent may, within thirty (30) days after completion of the work, file a written option with the City Clerk-Treasurer stating that he cannot pay the cost of connection in one (1) sum and electing that such sum be levied in five (5) equal annual installments, with interest at a rate established by the Council.

(e) **Privies, Cesspools, Etc., Prohibited After Connection With Sewer.** After connection of any building used for human habitation to a sewer main, no privy, cesspool, or water less toilet shall be used in connection with such human habitation.

SEC. 8-1-9 DRAINING SURFACE WATER INTO SANITARY SEWER PROHIBITED.

(a) **Ground and Storm Water Connections Prohibited.** No person shall connect or permit to be connected directly or indirectly the downspout of any building or cistern overflow with any sanitary sewer or in any manner cause or permit rain or surface water to drain into any sanitary sewer designated to carry sanitary sewage only. No foundation or footing drains shall be connected to the sanitary sewer system.

(b) **Inspection Required.** At time of water meter replacement, change out, or inspection, an inspection shall be conducted of the premises to ensure compliance with the provisions of this section relating to illegal surface or ground water connections to the sanitary sewer system.

(c) **Violation.** A notice of violation shall be issued by the Utility or Inspection Department to the owner of record of any building found to be allowing clear water, surface water, or drain tile system water to enter the sanitary sewer

system. The notice shall set forth the areas of violation and shall order the owner to remove the illegal connection.

- (1) Orders applicable to buildings where a sump pump installation is illegal shall have a 30-day compliance period.
 - (2) Orders applicable to buildings where clear water is illegally entering the sanitary sewer system via an under the basement floor connection shall have a 120-day compliance period.
- (d) **Reinspection.** Upon removal of the illegal connection to the sanitary system, the owner shall notify the designated authority to schedule an inspection of the repair, and shall make payment of an inspection fee of \$50 prior to reinspection.
- (e) **Noncompliance.** Upon expiration of the compliance period and the absence of a request by the owner for reinspection, the owner of record may be subject to a forfeiture of not less than \$50 nor more than \$200. Each day of violation shall constitute a separate offense.

CHAPTER 2

Pollution Abatement

8-2-1	Cleanup of Spills or Accidentally Discharged Wastes
8-2-2	Storage of Polluting Substances
8-2-3	Prohibited Discharges
8-2-4	Use and Sale of Fertilizer

SEC. 8-2-1 CLEANUP OF SPILLS OR ACCIDENTALLY DISCHARGED WASTES.

(a) **Cleanup Required.** All persons, firms, or corporations delivering, hauling, disposing, storing, discharging or otherwise handling potentially polluting substances, solid or liquid, such as, but not limited to, the following: fuel oil, gasoline, solvents, industrial liquids or fluids, milk, whey, grease trap and septic tank wastes, sewage sludge, sanitary sewer wastes, storm sewer catch-basin wastes, oil or petroleum wastes, shall immediately clean up any such spilled material to prevent its becoming a hazard to health or safety or directly or indirectly causing pollution to the lakes and streams under the jurisdiction of the City of Plymouth.

(b) **Notification.** Spills or accidental release of hazardous materials or pollutants at a site or of a quantity or nature that cannot adequately be cleaned up by the responsible party or parties shall be immediately reported to the Police Department, Fire Department and Wisconsin Department of Natural Resources so that assistance can be given by the proper agency.

(c) **Financial Liability.** The party or parties responsible for the release, escape or discharge of wastes shall be held financially liable for the cost of any cleanup or attempted cleanup deemed necessary or desirable and undertaken by the City, or its designated agent, in an effort to minimize the pollutional effects of the discharged waste.

SEC. 8-2-2 STORAGE OF POLLUTING SUBSTANCES.

It shall be unlawful for any person, firm or corporation to store any potentially polluting substances unless such substances are stored in such manner as to securely prevent them from escaping onto the ground surface and/or into any street, sewer, ditch or drainage way, lake or stream within the jurisdiction of the City of Plymouth.

SEC. 8-2-3 PROHIBITED DISCHARGES.

(a) **Prohibited Discharges.** No person, firm, or corporation shall discharge or cause to be discharged, leaked, leached, or spilled upon any public or private street, alley, public or private property, or unto the ground, surface waters, subsurface waters, or aquifers, or within the City (except those areas specifically licensed for waste disposal or landfill activities and to receive such materials) any explosive, flammable, or combustible solid, liquid, or gas, any radioactive material at or above Nuclear Regulatory Restriction levels, etiologic agents, or any solid, liquid, or gas creating a hazard, potential hazard, or public nuisance or any solid, liquid or gas having a deleterious effect on the environment, as defined by Chapter 144, Wis. Stats.

(b) **Notification.** Any discharge or release into the environment of any hazardous waste or substance shall be immediately reported to the Police Chief, Fire Chief, or Director of Public Works, who shall take immediate steps to cause the containment, removal, and proper disposal of such waste or substance in the event the person, firm or corporation having responsibility therefore shall be unable or unwilling to do so, or shall fail to take immediate steps therefore. Such containment, removal and disposal shall, at all times, remain the primary responsibility and obligation of the person, firm, or corporation causing or permitting the discharge, or from whose facility the same shall have been emitted. Applicable state agencies shall also be involved.

(c) **Containment, Cleanup, and Restoration.** Any person, firm, or corporation in violation of the above Section shall, upon direction of City officials, begin immediate actions to contain, cleanup, and remove to an approved repository the offending material(s) and restore the site to its original condition, with the offending person, firm, or corporation being responsible for all expenses incurred. Should any person, firm, or corporation fail to engage the necessary men and equipment to comply or to complete the requirements of this Section, the Mayor or the senior City Police or fire official on the scene may order the required actions to be taken by public or private resources and allow the recovery of any and all costs incurred by the City of Plymouth as action imposed by Subsection (c).

(d) **Emergency Services Response.** (Includes, but is not limited to: fire service, emergency medical service, law enforcement.) A person, firm, or corporation who possesses or controls a hazardous substance which is discharged or who causes the discharge of a hazardous substance shall be responsible for reimbursement to the responding agencies for actual and necessary expenses incurred in carrying out their duties under this Section. Actual and necessary expenses may include but not be limited to: replacement of equipment damaged by the hazardous material, cleaning, decontamination and maintenance of the equipment specific to the incident, costs incurred in the procurement and use of specialized equipment specific to the incident, specific

laboratory expenses incurred in the recognition and identification of hazardous substances in the evaluation of response, decontamination, clean up and medical surveillance, and incurred costs in future medical surveillance of response personnel as required by the responding agencies medical advisor.

(e) **Site Access.** Access to any site, public or private, where a prohibited discharge is indicated or suspected will be provided to City police and fire department personnel for the purpose of evaluating the threat to the public and monitoring containment, cleanup, and restoration activities.

(f) **Public Protection.** Should any prohibited discharge occur that threatens the life, safety, or health of the public at, near, or around the site of a prohibited discharge, and that the situation is so critical that immediate steps must be taken to protect life and limb, the Mayor or the senior City police or fire official on the scene of the emergency may order a evacuation of the area or take other appropriate steps for a period of time until the Common Council can take appropriate action.

(g) **Civil Liability.** Any person, firm, or corporation in violation of this Section shall be liable to the City of Plymouth for any expenses incurred by the City or loss or damage sustained by the City by reason of such violations.

SEC. 8-2-4 USE AND SALE OF FERTILIZER.⁴

(a) **Definitions.**

- (1) "Fertilizer" has the meaning given in § 94.64(1)(e), Wis. Stats., except that "fertilizer" does not include manipulated animal or vegetable manure or finished sewage sludge product.
- (2) "Finished sewage sludge product" has the meaning given in § 94.61(1)(fm), Wis. Stats.
- (3) "Manipulated" means ground; pelletized; mechanically dried; packages; supplemented with substances, including plant nutrients that do not contain phosphorus; or otherwise treated in a manner designated to facilitate sale or distribution as a fertilizer or soil or plant additive.
- (4) "Turf" means land, including residential property, golf courses, and publicly owned land, that is planted in closely mowed, managed grass, except that "turf" does not include pasture, land used to grow grass for sod, or any other land used for agricultural production.

⁴ Created by Ordinance No. 19 of 2010. Enacted on December 14, 2010.

(b) **Restrictions on Use.**

- (1) Except as provided in par. (2), below, no person may intentionally apply to turf fertilizer that is labeled as containing phosphorus or available phosphate.
- (2) Exceptions
 - a. Paragraph (1) does not apply to a person who applies fertilizer in order to establish grass, using seed or sod, during the growing season in which the person began establishing the grass.
 - b. Paragraph (1) does not apply to a person who applies fertilizer to an area if the soil in the area is deficient in phosphorus, as shown by a soil test performed no more than 36 months before the application by a laboratory.
- (3) No person may apply fertilizer, manipulated animal or vegetable manure, or finished sewage sludge product to turf when the ground is frozen.
- (4) No person may intentionally apply turf fertilizer, manipulated animal or vegetable manure, or finished sewage sludge product to an impervious surface. A person who accidentally applies turf fertilizer, manipulated animal or vegetable manure, or finished sewage sludge product to an impervious surface shall immediately remove it.

(c) **Restriction on Sale.** No person may sell at retail turf fertilizer that is labeled as containing phosphorus or available phosphorus if the person knows that the purchaser intends to use the fertilizer for a purpose other than one of the following:

- (1) For establishing grass, using seed or sod, during the growing season in which the purchaser began establishing the grass.
- (2) For application to an area if the soil in the area is deficient in phosphorus, as shown by a soil test performed no more than 36 months before the application by a laboratory.
- (3) For application to pasture, land used to grow grass for sod, or any other land used for agricultural production.

(d) **Restriction on Display.** No person who sells fertilizer at retail may display turf fertilizer that is labeled as containing phosphorus or available phosphate. A person who sells fertilizer may post a sign advising customers that turf fertilizer containing phosphorus is available upon request for uses permitted by subsection (b)(2).

(e) **Penalty.** Any person who violates this section may be required to forfeit not more than \$50 for a first violation and not less than \$200 nor more than \$500 for a second or subsequent violation.

CHAPTER 3

Refuse Disposal and Collection

8-3-1	Title
8-3-2	Declaration of Policy
8-3-3	Definitions
8-3-4	Refuse Storage Areas
8-3-5	Collection of Waste
8-3-6	Prohibited Activities and Non-Collectible Materials
8-3-7	Garbage Accumulation; When a Nuisance
8-3-8	Refuse From Outside the City
8-3-9	Mandatory Recycling
8-3-10	Enforcement

SEC. 8-3-1 TITLE.

This Chapter shall be known as the Solid Waste Management and Recycling Ordinance of the City of Plymouth, hereinafter referred to as this "Ordinance" or "Chapter."

SEC. 8-3-2 DECLARATION OF POLICY.

It is hereby declared to be the purpose and intent of this Chapter to enhance and improve the environment and promote the health, safety and welfare of the City by establishing minimum standards for the storage, collection, transport, processing, separation, recovery and disposal of solid waste.

SEC. 8-3-3 DEFINITIONS.

For the purpose of this Chapter, the following words and phrases shall have the meanings given herein unless different meanings are clearly indicated by the context.

(a) **Collector.** The person, firm, or corporation specifically authorized by the Common Council to collect garbage, rubbish and/or recyclable materials and dispose of the same.

(b) **Residential Garbage.** All accumulations of animal, fruit or vegetable matter that attends the preparation, use, cooking, dealing in, or storage of meats, fish, fowl, fruit or vegetables or any other ordinary household refuse or plant or animal matter and waste paper that is combustible in nature. Garbage shall not contain ashes, liquids, explosive matter, cans, pottery, crockery or mineral or metal substances, or animal carcass.

(c) **Commercial Garbage.** Decayed, spoiled or waste animal or vegetable matter or refuse which is deposited for collection by any place of business or commercial establishment other than a private residence which is combustible in nature. It shall not include animal carcasses.

(d) **Rubbish.** All inorganic refuse matter such as metal cans, wire, metal, glass, china, crockery, stone, earth, wood, ashes, leaves, grass, brush and items of a similar nature, but excluding vehicle tires.

(e) **Curb.** The back edge or curb and gutter along a paved street or where one would be if the street was paved and had curb and gutter.

(f) **Demolition Wastes.** That portion of solid wastes consisting of wastes from the repair, remodeling or reconstruction of buildings, such as lumber, roofing and sheathing scraps, rubble, broken concrete, asphalt and plaster, conduit, pipe, wire, insulation and any other materials resulting from the demolition of buildings and improvements.

(g) **Hazardous Waste.** Those wastes such as toxic, radioactive or pathogenic substances which require special handling to avoid illness or injury to persons or damage to property and the environment.

(h) **Industrial Wastes.** The refuse that accumulates in or upon land used for manufacturing, industrial, wholesale and slaughtering purposes.

(i) **Newsprint.** That portion of newspapers (newspapers and advertising circulars normally accompanying newspapers) or periodicals and advertising circulars printed on newsprint which remain in substantially original condition at the time of disposal such that the material is suitable for commercial-grade recycling. "Newsprint" does not include the paper commonly used in the production of magazines, catalogs, books and other physical media for written material or paper which is not suitable for recycling purposes or is in a state which makes separation unreasonable or unduly expensive, for reasons which include, but are not limited to, the following:

- (1) The paper has been put to another use, such as wrappings for other wastes, and is thus rendered unfit for commercial recycling.
- (2) The paper is no longer flat and folded to the approximate dimensions of its original condition.
- (3) The paper is mixed in with commercial or municipal litter or refuse as a result of the failure of citizen or business invitees to separate newspapers from other discarded materials outdoors or in publicly accessible areas of buildings.
- (4) The paper has been damaged or altered by any other means so as to make recycling impossible or unduly difficult.

(j) **Approved Container.** A container specifically approved by the Common Council for the containment of waste prior to collection.

(k) **Infectious Waste.** A solid waste which contains pathogens with sufficient virulence and quantity so that exposure to the waste by a susceptible host could result in an infectious disease, and shall include the following:

- (1) Microbiological lab wastes including cultures and lab equipment which has come into contact with cultures of infectious waste.
- (2) Blood, blood products, body fluids, plasma, and blood components including those from dialysis units.
- (3) Sharps, including needles, scalpel blades, syringes, lab glass wastes and glass pipets.
- (4) Wastes from surgical, autopsy, obstetrics and communicable disease isolation units which have had contact with patient blood or body fluids.
- (5) All other wastes as described in Wisconsin Administrative Code NR 500.03(67).
- (6) Recognizable human tissue must be incinerated in a crematorium facility capable of completely incinerating tissues. Non-human tissues are only considered infectious if they are known or suspected to contain pathogens with sufficient virulence and quantity so that exposure to the waste by a susceptible human host could result in an infectious disease.

(l) **Scavenging.** The uncontrolled removal of materials at any point in solid waste management.

(m) **Storage Areas.** Areas where persons place containers during non-collection days as well as areas where containers are set out on collection day.

(n) **Major Appliance.** Major appliance is defined as a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven (with capacitor removed), oven, refrigerator, stove, residential or commercial furnace, boiler, dehumidifier or water heater.

SEC. 8-3-4 REFUSE STORAGE AREAS.

(a) **Nuisance-Free Condition Required.** Storage areas shall be kept in a nuisance and odor-free condition. Litter shall not be allowed to accumulate. Collection crews will not be responsible for cleaning up loose materials from any containers which have become ruptured or broken due to wet conditions, animals, vandalism or other cause. The occupant and/or owner shall be responsible for cleaning up this litter. Litter not collected shall not be allowed to accumulate. Violation will result in the occupant and/or owner being notified to

clean up his area with continued violation resulting in the owner being prosecuted under the provisions of this and other City Ordinances.

(b) **Improper Placement.** No persons shall deposit, throw, or place any garbage, offal, dead animals, combustible refuse or other deleterious matter, or any materials prohibited by PMC §8-3-5(a)(3) in any property, parks, city garage, building locations, lane, alley, street, public grounds or public place within the City, nor place any garbage, offal, dead animals combustible refuse or other deleterious matter, or any materials prohibited by PMC §8-3-5(a)(3) upon any private property not owned or leased by such person. Improper placement can lead to penalties set forth in PMC §8-3-10.

(Revised 04/09)

SEC. 8-3-5 COLLECTION OF WASTE.

(a) Residential Waste Collection.

- (1) Collection District. The City of Plymouth shall be divided into convenient waste collection districts by the Director of Public Works, and waste shall be collected therefrom on a regular schedule five (5) days per week, Monday through Friday, excepting special holiday pick-ups. No waste shall be collected which is in violation of such regulations.
- (2) Containers. All waste shall be drained of water, securely wrapped, and placed in clear plastic bags (to the extent possible) of not more than thirty-three (33) gallons in size and of a weight that can be handled by one (1) man. Such bags shall be of sufficient strength so as to be water and rodent proof, and so as to prevent spillage, odor or disturbance of contents by animals. Any bag that shall be punctured, torn, leaking, damaged, or without proper fastener shall be deemed inadequate and not in compliance with this Section.
- (3)⁵ Prohibited Materials. The following materials shall be excluded from residential waste collection:
 - a. Yard wastes
 - b. Building and demolition wastes
 - c. Lead acid batteries
 - d. Waste motor oil
 - e. Motor vehicle tires
 - f. Major appliances
 - g. Paint (oil based), including but not limited to paint thinner, stain, turpentine and varnish

⁵ Amended by Ordinance No. 26 of 2012. Enacted on October 30, 2012.

- h. Chemicals, including but not limited to anti-freeze, pool chemicals, brake fluid, poisons, weed killer, insect spray, parts cleaner, pesticides, herbicides, dry cleaning solvents, and fertilizer with pesticides
- i. Flammable liquids, including but not limited to gasoline, kerosene, lighter fluid, propane tanks, and gasoline containers
- j. Explosives, including but not limited to ammunition
- k. Fireworks
- l. Microwaves
- m. Computers, including computer monitors
- n. Florescent light bulbs
- o. Light ballasts
- p. Asbestos
- q. Appliances Containing Freon. Any appliance containing freon shall be disposed of only by making special arrangements therefore with the City's contract waste collector. Such appliances shall not be deposited at the City Garage. This includes refrigerators, freezers, and dehumidifiers
- r. Animal carcasses
- s. Rocks and concrete
- t. Human Wastes
- u. Pathogenic or infectious wastes
- v. Hazardous wastes
- w. Bulky items – mattresses, couches, large furniture or similar items.
- y. Electronics – fax machines, DVD players, DVRs, cell phones, computers, televisions or similar electronic equipment

(b)⁶ Commercial Waste Collection.

- (1) Commercial waste will not be collected by the City or its agent. Each generator of commercial waste shall be responsible for proper disposal with a private hauler.
- (2) A commercial waste generator includes any apartment building with more than four (4) units or any business that generates trash.

(c) Industrial Wastes.

- (1) Industrial wastes shall not be collected or disposed of by the collector at the expense of the City. Suitable periodic collection of not less frequent than monthly shall be provided by and at the cost of each industrial waste generator. All industrial wastes generated in the City of Plymouth shall be subject to the provisions of Section 8-3-9 of this Chapter after January 1, 1995.

⁶ Amended by Ordinance No. 26 of 2012. Enacted on October 30, 2012.

(2) Each industrial waste generator shall comply with Sec. 159.11(c), Wis. Stats., and Ch. NR 544, Wis. Adm. Code.

a. The owner or designated agent of an industrial waste generator shall give written notice to all users and occupants, and to all lessees at the time of renting or leasing, and semiannually thereafter, that such mandatory recycling compliance is required, and shall provide suitable facilities, including separate containers, for the separation of recyclable materials, and collection by a waste hauler for disposal in accordance with Section 8-3-6(k). Such notice may be incorporated into a written lease, or may be given by separate written notice, with acknowledgment by the user, occupant, or tenant as to date of receipt thereof, which acknowledgment shall be maintained on file by the unit owner during the duration of such leased or other occupancy, and for a period of ninety (90) days thereafter, in compliance with Sec. 159.11(2)(c), Wis. Stats.

b. The owner or designated agent shall notify users, occupants and tenants of reasons to reduce or recycle solid waste, which materials are collected, how to prepare recyclable materials in order to meet the processing requirements, and the requirements of this Section, collection methods and sites, locations and hours of operation, and a contact person, including name, address, and phone number. Such owner or Designated agent shall file with the Director of Public Works of the City of Plymouth at least annually verification that this provision has been complied with.

c. The owner or designated agent of an industrial waste generator shall provide for collection by a waste hauler for disposal in accordance with Section 8-3-6(n) after January 1, 1995.

(d) **Placement for Collection.** All waste shall be accessible to collection crews. Waste in approved containers shall be placed immediately behind the curb of the public street for collection not sooner than 6:00 p.m. of the day preceding the scheduled collection. During winter months waste shall not be placed on or of snow banks, nor in the roadway. The owner shall either shovel out an area behind the curb in which to place wastes to be collected, or shall place such wastes in his/her driveway.

(e) **Special Collections.** Any residential or commercial waste generator who shall generate in excess of two (2) cubic yards of rubbish in any month and who does not fall within the definition of an industrial waste generator as defined herein, or who shall desire disposal of any single item having a weight in excess of one hundred (100) pounds, shall request special collection of such waste from the collector and shall make payment to such collector as a condition of the

removal and disposal of such wastes. Fees for such collection and disposal shall be as approved and on file with the City Clerk.

(f) **Refusal of Service.** The collector may refuse to furnish collection service to any person not complying with the provisions of this Chapter and any rules and regulations established by the Common Council and/or Director of Public Works for the collection of waste and the separation of recyclable materials and the use of approved containers.

(g) **Waste Hauler Reports.** Any person, firm, corporation, or other entity which shall collect any wastes from any waste generator in the City of Plymouth, and haul the same for disposal or recycling, shall provide the Director of Public Works with a quarterly report of the quantity of wastes so handled which shall indicate separately by weight the quantity of recyclable and non-recyclable wastes disposed of, and the location of disposal. This Section shall apply as well to any industrial waste generator which may haul its own wastes for disposal at any landfill, incineration facility or Material Recovery Facility (MRF).

SEC. 8-3-6 PROHIBITED ACTIVITIES AND NON-COLLECTIBLE MATERIALS.

(a) **Dead Animals.** It shall be unlawful to place any dead animal, or parts thereof, in a container for collection, provided, however, that this Section shall not apply to animal parts from food preparation for human consumption.

(b) **Undrained Food Wastes.** It shall be unlawful to place any garbage or other food wastes in a container for collection unless it is first drained and wrapped.

(c) **Improper Placement.** It shall be unlawful to place, or allow to be placed, any solid waste upon the roads, streets, or public or private property within the City of Plymouth contrary to the provisions of this Chapter.

(d) **Compliance With Chapter.** It shall be unlawful to store, collect, transport, transfer, recover, incinerate or dispose of any solid waste within the boundaries of the City contrary to the provisions of this Chapter.

(e) **Improper Transportation.** It shall be unlawful to transport any solid waste in any vehicle which permits the contents to blow, sift, leak or fall therefrom. If spillage does occur, the collection crew shall immediately return spilled materials to the collection vehicle and shall properly clean or have cleaned the area. All vehicles used for the collection and transportation of solid waste shall be durable, easily cleanable and leakproof, if necessary, considering the type of waste and moisture content. Collection vehicles shall be cleaned frequently to prevent nuisances and insect breeding and shall be maintained in good repair.

(f) **Interference With Authorized Collector.** No person other than an authorized collector or City official shall collect or interfere with any garbage after it shall have been put into a garbage receptacle and deposited in the proper place for the collector, nor shall any unauthorized person molest, hinder, delay or in any manner interfere with an authorized garbage or solid waste collector in the discharge of his duties.

(g) **Scavenging.** It shall be unlawful for any person to scavenge any solid waste placed for collection.

(h) **Private Dumps.** It shall be unlawful for any person to use or operate a dump.

(i) **Burning of Waste.** It shall be unlawful for any person to burn solid waste in any manner, except as may be provided elsewhere in this Code of Ordinances.

(j) **Prohibited Non-Collectible Materials.** It shall be unlawful for any person to place for collection any item listed in PMC §8-3-5(a)(3).

(k) **Recyclable Wastes.** All wastes as defined by Section 8-3-9(a) shall be disposed of at an approved Materials Recovery Facility (MRF) and shall not be disposed of by or at the request of any waste generator at any landfill or incineration facility after January 1, 1995. The City shall have the right to inspect all wastes produced by any waste generator or placed into the custody of any collector or waste hauler for disposition so as to ascertain the proper separation of recyclable wastes, and to inspect the records of any industrial or other waste generator from which any collector or waste hauler shall collect such wastes, so as to verify proper separation of recyclables and disposal thereof at an approved MRF.

(l) **Yard Wastes.** Yard wastes, including but not limited to grass clippings, leaves, brush, and tree limbs and branches of not greater than four (4) foot lengths, shall be deposited in a dumpster provided for such purpose and located at the City Garage on Valley Road during posted hours. Any residential or commercial owner desiring the hauling of such wastes may make arrangements for hauling with the collector at the expense of the requesting party.

(m) **Motor Oil.** Waste motor oil shall be disposed of in the receptacle provided therefore at the City Garage on Valley Road, or at any retail sales establishment engaged in the business of selling automotive engine oil to consumers providing facilities therefore.

(n) **Lead Acid Batteries.** Lead acid batteries shall be disposed of at the City Garage on Valley Road during posted hours and at the designated location, or at any retail sales establishment engaged in the business of selling batteries to consumers (disposal fee may apply).

(o) **Automobile and Motor Vehicle Tires.** Automobile and motor vehicle tires may be disposed of at the Sheboygan Area Transfer Station located at 2925 Paine Avenue, Sheboygan, Wisconsin for a designated disposal fee, or at any retail sales establishment engaged in the business of selling tires to consumers providing facilities therefore (disposal fee may apply).

SEC. 8-3-7 GARBAGE ACCUMULATION; WHEN A NUISANCE.

The accumulation or deposit of garbage, trash or putrescible animal or vegetable matter in or upon any lot or land or any public or private place within the City which causes the air or environment to become noxious or offensive or to be in such a condition as to promote the breeding of flies, mosquitoes or other insects, or to provide a habitat or breeding place for rodents or other animals, or which otherwise becomes injurious to the public health is prohibited and declared to constitute a nuisance.

SEC. 8-3-8 REFUSE FROM OUTSIDE THE CITY.

It is unlawful for any person, firm or corporation to place, deposit or cause to be deposited, for collection, any waste or refuse not generated within the corporate limits of the City of Plymouth.

SEC. 8-3-9 MANDATORY RECYCLING.

(a) **Separation Required.** All recyclable materials shall be separated from other waste and placed for collection at the time provided in Section 8-3-5. Recyclable materials shall consist of the following:

- (1) Container Glass. All brown, green and clear glass shall be unbroken, rinsed and have covers removed. Labels may remain on.
- (2) Newspapers. All newspapers shall be bundled and be kept dry so as not to render them unusable as recyclable items.
- (3) Metal Cans. All aluminum and steel cans and aluminum foil shall be cleaned and rinsed.
- (4) Plastic Containers. All plastic containers shall have covers removed and shall be rinsed.
- (5) Corrugated Cardboard. All corrugated cardboard shall be flattened, bundled and tied.
- (6) Foam Polystyrene Packaging Material. After January 1, 1995.

- (7) Magazines or Other Material Printed On Similar Paper. After January 1, 1995.
- (8) Office Paper. After January 1, 1995.
- (9) All Plastic Containers Labeled #3, #4, #5, #6 and #7. After January 1, 1996
(Note: All plastic containers are so denominated on the container).

(b) **Approved Container Required.** All recyclable materials shall be placed in a single approved container, excepting corrugated cardboard and newspapers. The approved container shall be a plastic bag of not greater than thirty-three (33) gallons in size, and of such color or design as is specified by the Director of Public Works.

(c) **Non-Recyclable Materials.** All non-recyclable materials shall be disposed of with weekly wastes collected pursuant to Section 8-3-5. Such wastes include the following:

- (1) Glass. All pyrex glass, window glass, light bulbs, mirrors, broken glass, pottery and china.
- (2) Plastics. All styrofoam and melamac type plastics and plastic food containers.
- (3) Paper. All waxed paper, waxed cardboard, envelopes with gum labels, glossy paper, magazines, telephone directories and envelopes with plastic windows.

(d) **Disposal of Large Items.** All large items such as appliances and furniture shall be placed at the curb for collection at a time provided in Section 8-3-5.

(e) **Theft or Disturbing of Recyclables.**

- (1) It shall be unlawful for any person, firm or corporation to remove, carry away or disturb recyclable materials from collection locations by anyone other than the City's designated recycling contractor. It shall be a violation of this Chapter for any person unauthorized by the City to collect or pick up or cause to be collected or picked up any recyclable materials that are placed for disposal by the City or by any authorized private entity. Any and each such unauthorized collection or scavenging of recyclable materials in violation hereof shall constitute a separate and distinct offense punishable as provided for herein.
- (2) All recyclable materials collected and deposited as provided in this Chapter shall be the property of the City's Collector. It shall be a violation of this Section for any unauthorized person to collect or pick up or cause to be collected or picked up any item deposited at the curb for collection. This Subsection shall not prohibit the actual

producers of recyclable materials or the owners of residential units or nonresidential units from which recyclable materials have been accumulated from personally collecting, conveying, and disposing of recyclable materials, provided such producers or owners do not violate the intent of this Chapter.

(f) **Alteration of Recyclable Materials.** It shall be unlawful to intentionally alter recyclable materials so as to render them as nonrecyclable material.

(g) **Residential Rental Units.**

- (1) All residential rental units shall comply with mandatory recycling commencing January 1, 1995. The owners of all buildings containing such units shall give written notice to all tenants, at the time of renting or leasing and semiannually thereafter, that such mandatory recycling compliance is required, and shall provide suitable facilities, including separate containers, for the separation of recyclable materials, and collection by a waste hauler for disposal in accordance with Section 8-3-6(k). Such notice may be incorporated into a written lease, or may be given by separate written notice, with acknowledgment by the tenant as to date of receipt thereof, which acknowledgment shall be maintained on file by the unit owner during the duration of such leased occupancy, and for a period of ninety (90) days thereafter, in compliance with Sec. 159.11(2)(c), Wis. Stats., and Ch. NR 544, Wis. Adm. Code.
- (2) The owner or designated agent shall notify tenants of reasons to reduce or recycle solid waste, which materials are collected, how to prepare recyclable materials in order to meet the processing requirements, and the requirements of this ordinance, collection methods and sites, locations and hours of operation, and a contact person, including name, address, and phone number. Such owner shall file with the Director of Public Works of the City of Plymouth at least annually verification that this provision has been complied.

(h) **Disposal Restricted.** No person shall dispose of in a solid waste disposal facility or convert into fuel or burn with or without energy recovery at a solid waste treatment facility any item subject to recycling contrary to Sec. 159.07(3) or (4), Wis. Stats.

(i) **Separation to Be Maintained.** Separation of materials prior to collection as is required by this Section shall be maintained during the collection process. All recyclable materials shall be maintained in marketable condition by the collector/hauler.

SEC. 8-3-10 ENFORCEMENT.

(a) **Official.** The Director of Public Works shall have jurisdiction over enforcement of this Chapter, including the issuance of citations for violations thereof. Injunctive relief may be authorized by the Common Council in addition to any other remedy herein provided.

(b) **Inspection Authority.** The Director of Public Works is hereby given full authority for the inspection of any and all wastes generated by any waste generator in the City of Plymouth, or any waste collector or hauler who shall dispose of any wastes generated in the City of Plymouth to ascertain compliance with this Chapter.

(c) **Penalties.** Each generator of non-industrial waste, or any collector or waste hauler therefore, which shall violate any provision of this Chapter shall forfeit not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) per day for each day of violation. Each generator of industrial waste, or any collector or waste hauler therefore which shall violate any provision of this Chapter shall forfeit not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00) per day for each day of violation. Each day of violation shall constitute a separate offense.

CHAPTER 4

City Cemeteries

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SEC. 8-4-1 CITY CEMETERIES.

The transfer of the properties known as the Union Cemetery located in the City of Plymouth, and the Woodlawn Cemetery located in the City of Plymouth from the Union Cemetery Association is accepted, and these City cemeteries are subject to all the provisions of this Chapter.

SEC. 8-4-2 SALE OF LOTS.⁷

All sales of cemetery lots in the City cemeteries shall be governed by this Section:

- (a) The Council shall adjust the price of lots from time to time.
- (b) All application for the purchase of lots in the cemeteries shall be made to the Superintendent of Cemeteries or his or her designee.
- (c) To residents of the City, the sale price is Three Hundred Dollars (\$300.00) per grave site.
- (d) To non-residents of the City, the sale price is Six Hundred Dollars (\$600.00) per grave site.
- (e) To residents of the City, the sale price for a half-lot in the designated cremation plot area is One Hundred Fifty Dollars (\$150.00) per grave site.
- (f) To non-residents of the City, the sale price for a half-lot in the designated cremation plot area is Three Hundred Dollars (\$300.00) per grave site.

⁷ Amended by Ordinance No. 7 of 2012. Enacted on April 4, 2012.

(g) Lots may be sold in fractions by grave sites and lot numbers when in the judgment of the Superintendent of Cemeteries and such sale is feasible.

SEC. 8-4-3 CONVEYANCE OF LOTS.⁸

Cemetery lot conveyances shall be made as follows:

(a) All lots sold in the cemeteries shall be conveyed by deed. The purchaser acquires the title and fee to the lot, subject to the conditions, limitations and reservations established by this Chapter or those which may hereafter be established for the government or maintenance of Union and Woodlawn Cemeteries.

(b) Any transfer of ownership of a grave site if there has been no interment therein shall be made subject to the written approval of the Superintendent of Cemeteries. This restrictive condition shall be made a part of each transfer instrument from and after January 28, 1958.

(c) After interment has been made in any grave site of a lot, the lot shall be inalienable except with the consent of the Superintendent of Cemeteries. Owners of unoccupied grave sites shall first offer them to the City at the original purchase price thereof, pro-rated for the remaining grave sites. The City shall, within twenty (20) days, either purchase such grave sites at such cost, or shall consent in writing to the transfer upon payment of Twenty Dollars (\$20.00) to the City for each transferred grave site.

SEC. 8-4-4 INTERMENT AND DISINTERMENT.

No interment shall be made without permission from the Superintendent of Cemeteries. Interment shall be made in a concrete or better quality crypt or box. The owners of lots may allow the interment of others than their immediate family, provided permission is given in writing and the same is filed with the Superintendent of Cemeteries. Disinterment and removal of the body shall not be made without the permission of the Council or Superintendent of Cemeteries, the lot owner, and the next of kin of the deceased. No disinterment shall be made without the written permit issued by the Health Officer. The permit shall be filed with the Superintendent of Cemeteries.

SEC. 8-4-5 GRAVE REGULATIONS.⁹

(a) All graves dug in any lot of the City cemeteries after March 20, 1945, shall be headed toward the west and headstones erected thereon shall be placed at

⁸ Amended by Ordinance No. 7 of 2012. Enacted on April 4, 2012.

⁹ Amended by Ordinance No. 7 of 2012. Enacted on April 4, 2012.

the west end of such graves, and shall be set back eighteen (18) inches from the west lot line so that all such headstones will be in a uniform line extending north to south. Before any grave is dug in any City cemetery, the owner of the lot upon which it is to be placed shall consult the Superintendent of Cemeteries, and shall follow his directions relating to the position, as regards the line from north to south, upon which the grave shall be placed. Any person erecting a headstone upon any grave in the City cemeteries shall also consult the Superintendent as to the position in which the headstone is to be erected.

(b) No grave in City Cemeteries shall be made or maintained with a crown above the level of the remaining portions of the lot upon which it is placed.

(c) The planting of perennials or annuals of a tall growth on graves is not permitted. One flower bed will be allowed on a lot. Flower beds shall be placed at the base of the monument, the width not to be over eighteen (18) inches and the length not greater than the width of the monument.

(d) Urns, boxes, flower beds, or any permanent decoration are not allowed on cremation designated lots. Only the head stone and/or military marker foot stone will be allowed. Fresh flowers may be placed at the grave site, but may be removed at the discretion of the Superintendent of Cemeteries or his or her designee.

SEC. 8-4-6 MONUMENTS, MARKERS AND VAULTS.¹⁰

(a) No monument or grave marker shall be erected upon a lot which has not been fully paid for.

(b) Before any monument or headstone is constructed or placed upon any lot or grave site, a permit therefore shall be secured by the lot owner from the Superintendent of Cemeteries which shall contain such information and data as may be prescribed by the Council.

(c) Foundation for monuments must not be less than five (5) feet deep and not less than three and one-half (3-1/2) feet deep for markers. They must be constructed of concrete four (4) inches larger on each side than the base of the monument or marker and of the same dimensions from top to bottom and shall not project above the surface level with top of same to have smooth trowel finish.

(d) Dealers or manufacturers cards or advertisements shall not be marked on any stone or placed anywhere within the cemetery limits.

¹⁰ Amended by Ordinance No. 7 of 2012. Enacted on April 4, 2012.

(e) Workmen engaged in placing stones, or removing excess ground, shall provide suitable boards on which to move the same, or on which to run trucks and immediately after work is completed, all rubbish is to be cleared away and the ground left clean and in good condition. Adjoining lots, paths or roads where work is being done must not be blocked or damaged. All workmen engaged in erecting monuments or other structures are prohibited from tying ropes to trees, shrubs or other objects. The workmen shall not litter the grounds longer than is necessary. Surrounding lots are to be restored to their proper condition. In cases of neglect, removal or repair work will be made by cemetery employees at the expense of the lot owner or contractor.

(f) The Council or the Superintendent of Cemeteries shall have the right to enter and remove from any lot, any monument, effigy or enclosure, or any structure, which shall be determined by them to be improper, offensive or injurious to the appearance of the cemeteries.

(g) The placing of boxes, shelves, ornaments, chairs, settees, glass, wood, or iron cases and similar articles upon a lot shall not be permitted, and if so placed, the Council or Superintendent of Cemeteries shall reserve the right to remove the same. Urns may be placed on a cemetery lot provided they are placed on a foundation level with the ground, and extending four (4) inches on all sides of the base of the urn. Before any urn is placed upon a lot, permission therefore shall be secured from the Superintendent of Cemeteries.

(h) The cemetery authorities will not be responsible for any damages to the lots or structures thereon, or for flowers or plants removed from any lot. Any damage or loss shall be reported to the Superintendent, who shall endeavor to discover the offender.

(i) Lot owners are prohibited from placing any curbing or fences around their lot. The Council may remove the curbs or fences at the cost of the owner of the lot in case of violation of this Section.

(j) Any lot owner, desirous of constructing a mausoleum, in either of the City cemeteries shall apply for permission to the Council. Plans and specifications must be submitted with the application. In addition to any conditions that may be imposed by the Council, the proposed mausoleum shall conform to the requirements of the Wisconsin State Board of Health.

(k) The maximum number of bodies buried on a gravesite shall be four. One vault per gravesite shall be permitted, with up to three additional permitted if remains are cremated, for a total of four.

(Revised 07/09)

(l) No animals may be buried in the cemetery.

- (m) Each gravesite is allowed one head stone and one foot stone installed flush to the ground. Military markers are considered a foot stone if not mounted on the head stone. Grave markers must be installed upon the gravesite and not encroach onto adjoining gravesites or walkways.
- (n) Each gravesite in the designated cremation plot area is allowed one head stone installed flush to the ground and shall be flat or horizontal to the ground. Such flat head stone shall be approved by the Superintendent of Cemeteries or his or her designee.

(Revised 07/09)

SEC. 8-4-7 CONDUCT IN CEMETERIES.¹¹

The following regulations shall govern the public in the cemeteries of the City:

- (a) Any person found loitering on the cemetery grounds after dark is liable to arrest.
- (b) Visitors shall keep on the paths and avenues and not walk over lots to take a shortcut through the cemetery.
- (c) Automobiles or other motor vehicles shall not be operated or driven within the cemetery at a speed in excess of five (5) miles per hour.
- (d) Cemetery roads shall not be used as a public thoroughfare or as shortcuts from one street to another.
- (e) No person driving in the cemetery shall make a "U" turn in the avenues.
- (f) Dogs are not allowed in the cemetery.
- (g) No person shall throw rubbish on the avenues, walks, or any part of the cemetery grounds.
- (h) No person shall pluck or remove flowers, either wild or cultivated, or break any tree, shrub or plant, or write upon, deface, or injure any marker, monument, or structure in or belonging to the cemetery.
- (i) Children under eight (8) years of age are not to be in a cemetery unless a parent, guardian, or some adult person is in charge of them.
- (j) No person shall be allowed to destroy bird nests, shoot or throw stones or to catch or kill any wild animal on the cemeteries grounds.

¹¹ Amended by Ordinance No. 7 of 2012. Enacted on April 4, 2012.

(k) No person shall disturb the quiet and good order of the cemeteries by noise or other improper conduct.

(l) No person shall erect or maintain any advertising sign upon cemetery grounds.

SEC. 8-4-8 COUNCIL AUTHORITY.

The Council shall, from time to time, lay out or alter avenues or walks and make such rules and regulations for the government of the cemetery grounds, as it may deem proper and expedient. All lot owners are subject to such rules, conditions, limitations and regulations as the Council may make from time to time, for the government and improvement of cemetery grounds. The Council or the Superintendent of Cemeteries shall have the right to enter upon any lot and remove therefrom any tree or shrubs in such lot, when they become detrimental to adjacent lots or avenues or cause inconvenience to passersby by reason of roots, branches or otherwise.

SEC. 8-4-9 PERPETUAL CARE.¹²

(a) **Definition.** Perpetual care means the cutting and sprinkling of grass at reasonable intervals; the raking and cleaning of the lot or grave, the pruning of the shrubs and trees; and such work as may be necessary to keep the lot or grave in good and neat condition in a manner as is now regularly done upon the lots and graves. It also includes the removal of snow from the roadway to the cemetery lot and the clearance of a sufficient space adjacent to the lot to facilitate to conducting of a burial. The repair or replacement of any foundation marker or monumental structure, the planting of flowers or plants, or any special work, or the cleaning of monuments or stones is not included in the term "perpetual care". The same service given to lots upon which perpetual care has been placed shall be given to lots which are on the annual assessment plan.

(b) **Funds Held in Trust.** The Council shall receive and hold in trust any sums of money from any person, the income of which is to be used for the care and improvement to the Woodlawn and Union Cemeteries, or any lot or appurtenance therein. All money so deposited, unless otherwise directed by the donor shall be paid into the City Treasury and placed in the perpetual care investment reserve fund. The City Treasurer shall give his receipt therefore, which shall be recorded in an appropriate book kept for that purpose. In such book, the amount received from each donor shall be stated, together with the specific purpose to which the use thereof is to be applied or appropriated.

¹² Repealed in its entirety by Ordinance No. 7 of 2012. Enacted on April 4, 2012.

(c) **Cost.** The sales price for all lots in the Woodlawn and Union Cemeteries shall include perpetual care. Lots upon the annual assessment plan on March 20, 1945, may be given perpetual care upon the payment of Ten Dollars (\$10.00) per grave site.

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