

CHAPTER 4

Holding Tanks
(Recreated in Part Ord. 2020-11; Adopted 6/1/20)

<i>Section Number</i>	<i>Title</i>	<i>Ordinance Number</i>	<i>Date of Ordinance</i>
8-4-1	Holding Tanks Prohibition, Generally		
8-4-2	New Holding Tank Variance Procedure		
8-4-3	Standard for Granting Variance		
8-4-4	Appeal Process		
8-4-5	Holding Tank Replacement Procedure		
8-4-6	Installation Restrictions	2021-14	12/06/22
8-4-7	Penalties		

SEC. 8-4-1 HOLDING TANKS PROHIBITION, GENERALLY.

Holding tanks for new residential construction shall be prohibited in the Village of Caledonia, except as provided in Section 8-4-2.

SEC. 8-4-2 NEW HOLDING TANK VARIANCE PROCEDURE.

- (a) Variance request. Any person who has been prohibited from installing and using a new holding tank under Section 8-4-1 may request a variance to install a new holding tank. The variance request shall be submitted to the Village Engineering Department, who may request any additional information required for the review of the variance request. The Village Engineering Department shall provide information and a recommendation on the request to the Village Plan Commission. The Village Plan Commission shall review the variance request and make a final recommendation on the request to the Village Board. The Village Board shall make the final determination on the variance request.
- (b) Time of Review. The Village Board shall make a final determination on the variance request within forty (40) days of receipt of the request. The time for review may be extended by agreement with the Applicant.
- (c) Final Determination. The Village Board’s final determination shall be placed in writing by the Village Engineering Department and provided to the Applicant.

SEC. 8-4-3 STANDARD FOR GRANTING VARIANCE

A variance may be granted, and not contrary to the public interest, when a literal enforcement of the provisions of Section 8-4-1 will result in unnecessary hardship. The burden is on the property owner to establish that an unnecessary hardship exists, which may support the issuance of a variance. The Village Clerk shall inform the Wisconsin Department of Commerce in writing of

each variance granted. The installation restrictions under Section 8-4-6 shall apply to all variances under this Chapter.

SEC. 8-4-4 APPEAL PROCESS.

- (a) Board Reconsideration. In the event of a denial by the Village Board under Section 8-4-2, the Village Engineering Department shall inform the applicant of the denial, the reasons for the denial, and of the opportunity to request a reconsideration of the application by the Village Board in a closed session. The Village Board shall provide a hearing within thirty (30) days of receipt of a notice to reconsider. The time for a hearing to reconsider may be extended by agreement with the Applicant. The Applicant may provide briefs, drawings, or any other pertinent information for reconsideration. A hearing notice for a reconsideration hearing shall be sent by registered mail to, or served upon, the applicant at least ten (10) days prior to the Board's reconsideration of the matter. At such reconsideration hearing, the Applicant may present evidence and testimony as to why the variance should be granted. If, upon reconsideration, the Board again denies the application, the Village Engineering Department shall notify the applicant in writing of the reasons for the denial.
- (b) Judicial Review. An Applicant may seek review of a denial by the Village Board to Circuit Court within thirty (30) days of receipt of the Village Board's final determination or reconsideration decision, whichever is later.

SEC. 8-4-5 HOLDING TANK REPLACEMENT PROCEDURE.

- (a) Application for holding tank replacement. Any person who wants to replace an already installed holding tank with a new holding tank shall submit an application to the Village Engineering Department. The Village Engineering Department shall approve or deny the application for a holding tank replacement and issue the determination in writing to the Applicant.
- (b) Standard of review. The application for a holding tank replacement under Section 8-4-5(a) shall be reviewed under the same standard set for in Section 8-4-3.
- (c) Approval. If an application is approved by the Village Engineering Department, the Applicant shall comply with the requirements set forth in Section 8-4-6.
- (d) Appeal. Applicants that are denied by the Village Engineering Department may appeal to the Village Board under Section 4-1-4 of the Village Code. If the application is then denied by the Village Board, the Applicant may appeal to Circuit Court for review.

SEC. 8-4-6 INSTALLATION RESTRICTIONS.

As a precondition to the installation of a holding tank in the Village of Caledonia, the landowner shall enter into an Owner-Village 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:

- (a) To bind any future owner of the property served by the holding tank to enter into a like agreement with the Village. In the event of transfer of the property, the new owner shall enter into a like agreement with the Village.
- (b) To pay all fees and all inspection fees as are properly established by legitimate appropriate authority.
- (c) To conform to all applicable laws, ordinances, rules and regulations relating to the installation, construction, operation, and maintenance of holding tanks.
- (d) 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 Village Plumbing Inspector.
- (e) 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 Village a copy of the specifics of each pumping or servicing with seven (7) days of such pumping or servicing.
- (f) To file with the Village copies of all reports required by the Wisconsin Department of Commerce concurrently with the filing with such agency.
- (g) To allow any authorized person of the Village 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.
- (h) In the event the Village Plumbing Inspector, the local 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.
- (i) 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 Village 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 Village on demand; and if such payment is not made to the Village within thirty (30) days, all unpaid costs may be carried on to the tax rolls of the Village of Caledonia as a special assessment pursuant to Sec. 66.60(16), Wis. Stats.
- (j) 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 Village 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 Village or anyone else because of the existence of the holding tank or the holding tank agreement.
- (k) That the Village 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.
- (l) 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.

SEC. 8-4-7 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.