

STATE OF WISCONSIN

TOWN OF DELAFIELD

WAUKESHA COUNTY

ORDINANCE NO. 2011-008

AN ORDINANCE TO REPEAL SECTION 21.04
OF THE TOWN OF DELAFIELD MUNICIPAL CODE
REGARDING NOTICE OF APPLICATION OF
CHEMICAL WEED TREATMENT IN NAVIGABLE WATERS

WHEREAS, the City of Pewaukee adopted an ordinance to regulate the application of chemical weed treatments in navigable waters, regarding Lake Pewaukee; and

WHEREAS, the Town of Delafield adopted a comparable ordinance to the one adopted by the City of Pewaukee, in order to allow for consistent regulation regarding the waters of Lake Pewaukee; and

WHEREAS, on or about October 12, 2011, the City of Pewaukee was notified by Mr. Ben Brancl, Secretary of the Wisconsin Department of Agriculture, Trade and Consumer Protection, that DATCP has concluded that the City of Pewaukee ordinance is preempted by State law, and that said ordinance must be rescinded; and

WHEREAS, while the Town of Delafield does not concede that its ordinance is preempted, the Town of Delafield Town Board is inclined to yield to the State agency's interpretation rather than face possible enforcement actions that could be brought against the Town by the State of Wisconsin.

NOW THEREFORE, the Town Board of the Town of Delafield, Waukesha County, Wisconsin, DOES HEREBY ORDAIN as follows:

SECTION 1: Chapter 21 of the Town of Delafield Municipal Code entitled "Pewaukee Lake Summer and Winter Regulations," Section 21.04 entitled "Notification Requirements for Chemical Treatment of Aquatic Plants" is hereby repealed.

SECTION 2: SEVERABILITY.


The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinance whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 3: EFFECTIVE DATE.

This ordinance shall be effective upon publication or posting as provided by law.

Dated this 25th day of October, 2011.

TOWN OF DELAFIELD



Paul L. Kanter, Town Chair

ATTEST:



Mary Elster, Town Clerk

This ordinance posted or published 11/9/11.

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