

CHAPTER 17: RECYCLING ORDINANCE

17.01. Title/Purpose.

This chapter is entitled "Recycling Ordinance." The purpose of Chapter 17 is to promote recycling, composting, and resource recovery through the administration of an effective recycling program, as provided in Wis. Stat. § 287.11 and Wis. Admin. Code. ch. NR 544.

17.02. Statutory Authority.

This ordinance is adopted as authorized under Wis. Stat. § 287.09(3)(b) and Wis. Admin. Code §§ NR 544.04(2) and 544.06.

17.03. Abrogation and Greater Restrictions.

It is not intended by this chapter to repeal, abrogate, annul, impair, or interfere with any existing rules, regulations, ordinances or permits previously adopted or issued pursuant to law. However, whenever this chapter imposes greater restrictions, the provisions of this chapter shall apply.

17.04. Interpretation.

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this chapter may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this chapter is required by Wisconsin Statutes, or by a standard in Wis. Admin. Code ch. NR 544, and where the ordinance provision is unclear, the provision shall be interpreted in light of the Wisconsin Statutes and Wis. Admin. ch. NR 544 standards in effect on the date of the adoption of this chapter or in effect on the date of the most recent text amendment to this chapter.

17.05. Severability.

Should any portion of this chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected.

17.06. Applicability.

The requirements of this chapter apply to all persons within the limits of the Town.

17.07. Administration.

The provisions of this chapter shall be administered by the Town Board.

17.08. Definitions.

For the purpose of this chapter, the following definitions shall be used. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word “shall” is mandatory and not directory.

A. “Bi-metal container” means a container for carbonated or malt beverages that is made primarily of steel and aluminum.

B. “Campfire” means a small outdoor fire intended for recreation or cooking that does not exceed a three-foot by three-foot area.

C. “Container board” means corrugated paperboard used in the manufacture of shipping containers and related products.

D. “Foam polystyrene packaging” means packaging made primarily from foam polystyrene that satisfies one of the following criteria:

(1) Is designed for serving food or beverages.

(2) Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.

(3) Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.

E. “HDPE” means high density polyethylene, labeled by the SPI code #2.

F. “LDPE” means low density polyethylene, labeled by the SPI code #4.

G. “Magazines” means magazines and other materials printed on similar paper.

H. “Major appliance” means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, stove, furnace, boiler, dehumidifier, or water heater.

I. “Multiple-family dwelling” means a property containing five or more residential units, including those which are occupied seasonally.

J. “Newspaper” means a newspaper and other materials printed on newsprint.

K. “Nonresidential facilities and properties” means commercial, retail, industrial, institutional, and governmental facilities and properties. This term does not include multiple-family dwellings.

L. “Office paper” means high grade printing and writing papers from offices in nonresidential facilities and properties. Printed white ledger and computer printout are examples of office paper generally accepted as high grade. This term does not include industrial process waste.

M. “Other resins or multiple resins” means plastic resins labeled by the SPI code #7.

N. “Person” includes any individual, corporation, partnership, association, local governmental unit, as defined in Wis. Stat. § 66.0131(1)(a), state agency or authority, or federal agency.

O. “PETE” means polyethylene terephthalate, labeled by the SPI code #1.

P. “Plastic container” means an individual, separate, rigid plastic bottle, can, jar, or carton, except for a blister pack, that is originally to contain a product that is the subject of a retail sale.

Q. “Post-consumer waste” means solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in Wis. Stat. § 291.01(7), waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste, as defined in Wis. Stat. § 289.01(17).

R. “PP” means polypropylene, labeled by the SPI code #5.

S. “PS” means polystyrene, labeled by the SPI code #6.

T. “PVC” means polyvinyl chloride, labeled by the SPI code #3.

U. “Recyclable materials” includes lead acid batteries, major appliances, waste oil, yard waste, aluminum containers, corrugated paper or other container board, foam polystyrene packaging, glass containers, magazines, newspaper, office paper, rigid plastic containers, including those made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or multiple resins, steel containers, waste tires, and bi-metal containers.

V. “Solid waste” has the meaning specified in Wis. Stat. § 289.01(33).

W. “Solid waste facility” has the meaning specified in Wis. Stat. § 289.01(35).

X. "Solid waste treatment" has the meaning specified in Wis. Stat. § 289.01(39).

Y. "Waste tire" means a tire that is no longer suitable for its original purpose because of wear, damage, or defect.

Z. "Yard waste" means leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than six inches in diameter. This term does not include stumps, roots, shrubs with intact root balls, nor vegetation such as Christmas trees and decorative centerpieces containing nonbiodegradable material.

17.09. Separation of Recyclable Materials.

Occupants of single-family and two- to four-unit residences, multiple-family dwellings, and nonresidential facilities and properties shall separate the following materials from postconsumer waste:

- A. Lead acid batteries
- B. Major appliances
- C. Waste oil
- D. Yard waste
- E. Aluminum containers
- F. Bi-metal containers
- G. Corrugated paper or other container board
- H. Foam polystyrene packaging
- I. Glass containers
- J. Magazines
- K. Newspaper
- L. Office paper
- M. Rigid plastic containers made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or multiple resins

N. Steel containers

O. Waste tires

17.10. Separation Requirements Exempted.

The separation requirements of Section 17.09, above, do not apply to the following:

A. Occupants of single-family and two- to four-unit residences, multiple-family dwellings, and nonresidential facilities and properties that send their post-consumer waste to a processing facility licensed by the Wisconsin Department of Natural Resources that recovers the materials specified in Section 17.09, above, from solid waste in as pure a form as is technically feasible.

B. Solid waste which is burned as a supplemental fuel at a facility if less than 30 percent of the heat input to the facility is derived from the solid waste burned as supplemental fuel.

C. A recyclable material specified in subsections 17.09.E. through 17.09.O., above, for which a variance has been granted by the Wisconsin Department of Natural Resources under Wis. Stat. § 287.11(2m) or Wis. Admin. Code § NR 544.14.

17.11. Care of Separated Recyclable Materials.

To the greatest extent practicable, the recyclable materials separated in accordance with Section 17.09, above, shall be clean and kept free of contaminants such as food or product residue, oil or grease, or other nonrecyclable materials, including but not limited to household hazardous waste, medical waste, and agricultural chemical containers. Recyclable materials shall be stored in a manner which protects them from wind, rain, and other inclement weather conditions.

17.12. Management of Lead Acid Batteries, Major Appliances, Waste Oil, and Yard Waste.

Occupants of single-family and two- to four-unit residences, multiple-family dwellings, and nonresidential facilities and properties shall manage lead acid batteries, major appliances, waste oil, and yard waste as follows:

A. Lead acid batteries shall be deposited at the Mallard Ridge Recycling & Disposal Facility, provided that said batteries remain unbroken and intact. Broken batteries will not be accepted unless drained of liquid or acid.

B. Major appliances shall be deposited at Mallard Ridge Recycling & Disposal Facility and shall be unbroken and intact. Any major appliance that is

broken or not intact shall be drained of any substance, gas, or liquid prior to deposit.

C. Waste oil shall be deposited at Mallard Ridge Recycling & Disposal Facility or the Town garage. Waste oil shall not contain gasoline, detergents, or solvents commingled with it.

D. Yard waste shall be deposited at Mallard Ridge Recycling & Disposal Facility. Yard waste shall include tree limbs or branches no larger than one inch in diameter and shall not include or be commingled with paper or other nonbiodegradable material. Yard waste shall be deposited without a container, or if in a container such shall be biodegradable or paper.

E. All of the deposits made of items set forth in subsections 17.12.A. through 17.12.D., above, shall be at designated areas or receptacles as provided by Mallard Ridge Recycling & Disposal Facility.

F. Microwave ovens may be submitted for landfill disposal provided the capacitor has been removed from the microwave oven.

17.13. Preparation and Collection of Recyclable Materials.

Occupants of single-family and two- to four-unit residences shall do the following for the preparation and collection of the separated materials specified in subsections 17.09.E. through 17.09.O., above:

A. Aluminum containers shall be drained and rinsed free of product residue and placed in a designated receptacle at Mallard Ridge Recycling & Disposal Facility.

B. Bi-metal containers shall be drained and rinsed free of product and residue and placed in a designated receptacle at Mallard Ridge Recycling & Disposal Facility.

C. Corrugated paper or other container board shall be free of debris and placed in a designated receptacle at the Mallard Ridge Recycling & Disposal Facility.

D. Foam polystyrene packaging shall be free of debris and placed in a designated receptacle at the Mallard Ridge Recycling & Disposal Facility.

E. Glass containers shall be drained and rinsed free of product residue and placed in a designated receptacle at Mallard Ridge Recycling & Disposal Facility.

F. Magazines shall be separated from all other paper, including newspaper, office paper, and corrugated paper, and placed in the designated receptacle at the Mallard Ridge Recycling & Disposal Facility.

G. Newspaper shall be flat and free of nonrecyclable material or garbage and debris, deposited at the Mallard Ridge Recycling & Disposal Facility, and placed in a designated receptacle.

H. Office paper shall be free of nonrecyclable material or garbage and free of debris, relatively clean in texture, and placed in a designated receptacle at the Mallard Ridge Recycling & Disposal Facility.

I. Rigid plastic containers shall be prepared and collected as follows: plastic containers made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or multiple resins shall be drained and rinsed free of product residue with caps removed and placed in the designated recycling receptacle at the Mallard Ridge Recycling & Disposal Facility.

J. Steel containers shall be free of garbage and debris and shall be rinsed free of product residue and placed in the designated receptacle at Mallard Ridge Recycling & Disposal Facility.

K. Waste tires shall be free of liquids and debris and deposited at the Mallard Ridge Recycling & Disposal Facility.

17.14. Responsibilities of Owners or Designated Agents of Multiple-Family Dwellings.

A. Owners or designated agents of multiple-family dwellings shall do all of the following to recycle the materials specified in subsections 17.09.E. through 17.09.O., above:

(1) Provide adequate, separate containers for the recyclable materials.

(2) Notify tenants, in writing, at the time of renting or leasing the dwelling, and at least semi-annually thereafter, about the established recycling program.

(3) Provide for the collection of the materials separated from the solid waste by the tenants and the delivery of the materials to a recycling facility.

(4) Notify tenants of reasons to reduce and recycle solid waste, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address, and telephone number.

B. The requirements specified in subsection 17.14.A., above, do not apply to the owners or designated agents of multiple-family dwellings if the post-consumer waste generated within the dwelling is treated at a processing facility licensed by the Wisconsin Department of Natural Resources that recovers for recycling the materials specified in subsections 17.09.E. through 17.09.O., above, from solid waste in as pure a form as is technically feasible.

17.15. Responsibilities of Owners or Designated Agents of Nonresidential Facilities and Properties.

A. Owners or designated agents of nonresidential facilities and properties shall do all of the following to recycle the materials specified in subsections 17.09.E. through 17.09.O., above:

- (1) Provide adequate, separate containers for the recyclable materials.
- (2) Notify, in writing, at least semi-annually, all users, tenants, and occupants of the properties about the established recycling program.
- (3) Provide for the collection of the materials separated from the solid waste by the users, tenants, and occupants and the delivery of the materials to a recycling facility.
- (4) Notify users, tenants, and occupants of reasons to reduce and recycle, which materials are collected, how to prepare materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address, and telephone number.

B. The requirements specified in subsection 17.15.A., above, do not apply to the owners or designated agents of nonresidential facilities and properties if the post-consumer waste generated within the facility or property is treated at a processing facility licensed by the Wisconsin Department of Natural Resources that recovers for recycling the materials specified in subsections 17.09.E. through 17.09.O., above, from solid waste in as pure a form as is technically feasible.

17.16. Prohibitions on Disposal of Recyclable Materials Separated for Recycling.

No person may dispose of in a solid waste disposal facility or burn in a solid waste treatment facility any of the materials specified in subsections 17.09.E. through 17.09.O., above, which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.

17.17. Hauler Licensing.

No person or corporation shall engage in the business of hauling recyclables within the Town without being licensed by the Wisconsin Department of Natural Resources.

17.18. Processor Certification.

No recyclable processing facility shall operate within the Town unless said facility is self-certified with the Wisconsin Department of Natural Resources under Wis. Admin. Code. § NR 544.16.

17.19. Anti-Scavenging or Unlawful Removal of Recyclables.

It shall be unlawful for any person, unless under contract with or licensed by the Town, to collect or remove any recyclable material that has been deposited or placed at a home or nonresidential building for the purpose of collecting for recycling.

17.20. Dumping.

It shall be unlawful for any person to dispose of or dump garbage in any street, alley, or other public road or place within the Town or in any receptacles on private property without the owner's consent, unless it is placed in bags or containers in the manner and at the time specified by this chapter.

17.21. Burning.

This chapter does not apply to campfires. All other open burning shall be permitted in accordance with Wis. Admin. Code ch. NR 429 and subject to all of the following conditions:

A. Every person who undertakes allowable burning allowed under this chapter shall first inform the Walworth County Sheriff's Department of the date, time, and location of the proposed burn.

B. All persons engaged in allowable burning are responsible for containing the fire in the place in which it was set, including suppression of sparks and embers.

C. All persons engaged in allowable burning are responsible for assuring that the fire is properly and completely extinguished after the burning is concluded.

D. All allowable burning shall be under the control of a responsible adult.

E. All persons who start a fire in the Town are strictly liable for any and all damages caused by that fire.

17.22. Nondisposable Materials.

It shall be unlawful for any person to place for disposal any of the following wastes: hazardous and toxic wastes, chemicals, explosives, and flammable liquids.

17.23. Enforcement.

A. For the purpose of ascertaining compliance with the provisions of this chapter, any authorized officer, employee, or representative of the Town or Mallard Ridge Recycling & Disposal Facility may inspect recyclable materials separated for recycling, post-consumer waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection areas of multiple-family dwellings and nonresidential facilities, and properties, and any records relating to recycling activities, which shall be kept confidential when necessary to protect proprietary information. No person may refuse access to any authorized officer, employee, or authorized representative of the Town or Mallard Ridge Recycling & Disposal Facility who requests access for purposes of inspection and who presents appropriate credentials. No person may obstruct, hamper, or interfere with such an inspection.

B. Any person who violates a provision of this chapter may be issued a citation by the Town. The issuance of a citation shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this subsection.

C. Penalties for violating this chapter may be assessed as follows:

(1) Any person who violates Section 17.16, above, may be required to forfeit \$50.00 for a first violation, \$200.00 for a second violation, and not more than \$2,000.00 for a third or subsequent violation.

(2) Any person who violates Section 17.22, above, may be required to:

(a) Forfeit not less than \$50.00, nor more than \$500.00, for each offense.

(b) Institute those remedial measures summarily and/or within a defined time period, necessary to correct any violation.

(c) Be enjoined or restrained from further violation.

(d) Pay the fees, costs, and disbursements incurred by the Town associated with prosecution of the action.

(3) Any person who violates a provision of this chapter, except Sections 17.16 or 17.22, above, may be required to forfeit not less than \$10.00, nor more than \$1,000.00, for each violation.

17.24. Recycling Officer.

The Town Board may appoint a Town resident as recycling officer. The recycling officer will file the appropriate reports required by Wisconsin Statutes and applicable state regulations, and keep the necessary documentation of the records and reports for not less than three years. Copies of all records and reports shall be presented to the Town Board and filed by the Town Clerk.

17.25. Effective Date.

The effective date of this chapter shall be January 1, 1995.