

206.1 Recycling Ordinance

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Town Board of the Town of Berry, Dane County, Wisconsin hereby ordains as follows:

SECTION I – PURPOSE

The Town Board finds participation in a mandatory source separation recycling program appropriate in this jurisdiction to conserve energy, recycle valuable resources, and to protect public health, welfare and the environment, while conserving local landfill capacity. The municipality also finds participation in these programs appropriate to achieve consistency with county-wide recycling policies to ensure that the Town will be able to use the county-owned landfill.

SECTION II – DEFINITIONS

The following words are defined in this ordinance as follows:

- A. “Collector/Hauler” means the contractor or person chosen by the Town Board to collect, handle, transport and report on the community’s solid waste, recyclables and non-recyclables, or, person or persons contracting with waste generators for these services, and will enforce preparation standards for recyclable materials as well as ensure community compliance with this source separation recycling program.
- B. “Demolition and construction material” means discarded solid waste resulting from the construction, demolition or razing of buildings, roads and other structures. Demolition and construction material typically consists of concrete, bricks, bituminous concrete, wood, glass, masonry, roofing, siding and plaster, alone or in combinations. It does not include asbestos, waste paints, solvents, sealers, adhesives or similar materials.
- C. “Corrugated cardboard” means heavy duty Kraft-type paper packaging material with corrugated medium between two flat paper liners, and does not include paperboard such as for cereal or laundry detergent boxes or holders for 6 packs or 12 packs of beverage cans or bottles.
- D. “Garbage” means discarded solid materials resulting from the handling, processing, storage and consumption of food.
- E. “Glass containers” means glass bottles, jars and containers and does not

- include window glass, drinking glasses, Pyrex-type, light bulbs or other non-container glass.
- F. “Good faith” means reasonable efforts to adhere to the policies, standards and rules of this mandatory source separation recycling program
 - G. “Hazardous waste” or “hazardous substance” means those wastes or substances defined thusly in NR 661.03 of the Wisconsin Administrative Code (including all amendments provided thereto) as provided therein pursuant to section 291.05(1) to 291.11(4), Wis. Stats., or other acts pursuant to authority vested in the Wisconsin Department of Natural Resources to describe and list materials thusly and also includes in the meaning of “hazardous waste” or “hazardous substance” as described supra those solid wastes or substances found in household waste (notwithstanding the household waste exclusion provided in s. NR 661.01(2)(a), Wisconsin Administrative Code). Examples of hazardous waste are those wastes such as toxic, radioactive or pathogenic substances which require special handling to avoid illness or injury to persons or damage to property or environment, such as lye, pesticides, turpentine, paint solvents, etc.
 - H. “Lead-acid batteries” means automotive and related batteries that are comprised of lead plates with an acid electrolyte, and does not include nickel-cadmium batteries, dry cell (flashlight) batteries or batteries used in calculators, watches, hearing aids or similar devices.
 - I. “Major appliance” means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, stove, water heater or any other item commonly referred to as a white good.
 - J. “Metal cans” means tin coated steel cans, bi-metal cans, and aluminum cans used for food and other non-hazardous materials but excluding aerosol cans and cans that held paint, paint related products, pesticides or other toxic or hazardous substances.
 - K. “Multi-family dwelling” means a residential dwelling place intended to be the residence of four or more independent family units.
 - L. “Municipality” means the Town of Berry, located wholly within the boundaries of Dane County.
 - M. “Newspapers” means matter printed on newsprint including daily or weekly publications and advertising materials but excludes glossy paper, magazines, catalogs or similar materials.
 - N. “Other papers” shall mean all paper excluding newsprint materials or materials specifically excepted in the definition of “newspapers” and “corrugated cardboard” but shall include grades of fiber materials with available markets for recycling.
 - O. “Bulky waste” means large items such as furniture, mattresses, carpeting, large metal products (such as lawnmowers, gym sets, lawn furniture, etc.) brush and other large items whose proportions are not easily reduced.
 - P. “Person” includes any individual, corporation, organization, association, local government unit, as defined in section 66.0131(1)(a) Wis. Stats., state agency or authority or federal agency.
 - Q. “Plastic container” means plastic bottles or container of 8 ounces or greater clearly marked with the recycling symbol with number.

- R. "Preparation standards" shall mean criteria provided establishing acceptable good faith limits for introduction of materials into the source separation recycling program involving either transport to a material recycling center or temporary storage of such materials.
- S. "Recyclable material" means identified materials meeting preparation standards and shall include the following: newspapers; corrugated cardboard; unbroken brown, green and clear container glass; aluminum, bi-metal and tin-coated steel cans; plastic containers; tires; used oil; lead-acid batteries; and major appliances and other ferrous and non-ferrous metals.
- T. "Refuse" means discarded combustible and non-combustible materials including, but not limited to: bulky waste, major appliances, paper products, glass, cloth, litter; uncontaminated ashes; building materials such as wood, concrete, glass, plaster and other intermixed materials produced in construction or demolition of structures and products thereof in unrecoverable condition.
- U. "Solid waste stream" means recyclable materials, garbage, refuse, hazardous waste, hazardous substances, used oil, tires, yard waste and all other discarded or recyclable solid materials, including materials resulting from industrial, commercial and agricultural operations, and from community activities, but does not include solids or dissolved material in waste water effluents or other common water pollutants.
- V. "Solid waste storage" shall mean safe, environmentally sound short-term containment of materials and for recyclables shall involve preserving materials in a condition meeting preparation standards by the property owner.
- W. "Tires" for collection purposes shall mean rubber tires, from automobile and light truck tires and other tires whose size is less than 1100 x 24.5, which are removed from rims.
- X. "Used oil" means any contaminated petroleum-derived or synthetic oil including but not limited to the following: engine and other mechanical lubricants; hydraulic and transmission fluid; metalworking fluid; and, insulating fluid or coolant.
- Y. "Yard waste" means leaves, grass clippings, yard and garden debris, including brush and clean woody vegetative materials. "Brush" means branches no bigger than two (2) inches in diameter and no longer than eight (8) feet in length, but does not include tree stumps, extensive root systems or shrubs with intact root balls.

SECTION III – APPLICABILITY

This ordinance shall apply to all persons, entities, collectors and haulers within the corporate limits of the Town of Berry.

SECTION IV – CONFLICT AND SEVERABILITY

The provisions of this ordinance shall be held to be minimum requirements and shall not be deemed a limitation of repeal of any other power granted by the Wisconsin Statutes and pertinent Dane County Ordinances in their interpretation and application. Because this ordinance creates a comprehensive, mandatory source separation recycling program in our community, where any terms or requirements of this ordinance may be inconsistent

or conflicting, the more restrictive requirements or interpretations consistent with state and county law shall control. If any section, provision or portion of this ordinance is found unconstitutional or invalid by a court, the remainder of the ordinance shall remain enforceable and shall not be affected by the ruling.

SECTION V – PREPARATION STANDARDS

Acceptable recyclable materials shall be prepared in accordance with the following standards for collection purposes pursuant to this ordinance:

- A. “Newsprint” shall be dry, free of paper not normally included in the newspaper and not sunburnt (turned yellow or tan from sun).
- B. “Corrugated cardboard” shall be flattened, empty and free of food debris and other contaminating materials.
- C. “Glass containers” shall be empty, clean of contaminates and free of metal caps and rings.
- D. “Metal cans” shall be empty and clean.
- E. “Plastic containers” shall be empty, cleaned and have caps removed.
- F. “Lead-acid batteries” shall have all caps firmly attached and be free from leaks.
- G. “Used oil” shall be clearly identified as to type of lubricant or fluid, shall be free of materials interfering with recycling process, and shall be in tightly sealed, non-leaking containers.
- H. “Tires” shall include automobile and light truck tires less than a size of 1100 x 24.5 and be removed from rims. These tires shall be collected only on designated days and in a manner chosen by the Town Board. Furthermore, additional preparation standards may be provided by notice to generators of waste and collectors/haulers or by amendment to this subsection when other materials become recyclable dependent upon available economic markets.

SECTION VI – MANDATORY SOURCE SEPARATION AND COLLECTION

The following provisions shall apply to the discarded solid waste stream generated within the municipality excluding hazardous waste and hazardous substances:

- A. Refuse and Garbage. Refuse includes all waste material, including garbage, rubbish and industrial waste, and shall by way of enumeration but not by way of limitation include grass, leaves, sticks, tree branches and logs, stumps, stone, cement, boards, furniture, household appliances or garden debris. Garbage includes every refuse accumulation of animals, fruit or vegetable matter, liquid or otherwise, that attends the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit or vegetables in containers originally used in foodstuffs.
- B. Grass, Leaves and Brush. Grass, leaves and brush shall not be collected with the intent of disposal at Dane County sanitary landfills. The municipality shall be responsible to provide a site where you can dispose of them by your own means of transportation. A compost pile will also be at this site for non-combustibles listed under this category.
- C. Separation and Handling of Recyclable Material. All recyclable materials shall be separated from other solid waste.
- D. Recyclable material placed at the curbside for collecting may or may not have

- to be separated depending upon the collector/hauler regulations. Containers for recyclable will be furnished by the municipality. If for any reason they are destroyed or misplaced the resident will be charged for a new container. The size of container depends on the collector/hauler.
- E. Newspaper and Corrugated Cardboard. Newspapers shall be securely tied in neat bundles less than 12 inches thick. Corrugated cardboard shall be flattened and securely tied in bundles. These may be placed neatly beside the recyclable container or can be picked up when the garbage is picked up if you're on the regular garbage pickup schedule.
 - F. Other Items such as lead-acid batteries, major appliances, tires, used oil and bulky waste will be picked up by contacting the collector/hauler as to when and at what price they will be picked up. All the rest of the recyclables will be picked up twice a month free of charge until further board action.
 - G. Requirements for Multi-Family Dwellings. Owners of multi-family dwellings shall provide adequate containers for handling and collection of recyclable materials enabling tenants to ensure separation of recyclables and ensuring that recyclables meet preparation standards. Owners of multi-family dwellings shall exercise good faith to assure that residents and occupants comply with recycling requirements of this ordinance. Owners of multi-family dwellings shall notify tenants at the time of renting or leasing the dwelling and semi-annually thereafter of the recycling programs provided in this paragraph.
 - H. Requirements at Commercial, Retail, Industrial, Institutional and Governmental Facilities. The owners of commercial, retail, industrial, institutional and governmental facilities shall provide adequate, marked containers for separate handling and collection of recyclable materials, excluding used oil, tires, major appliances and bulky waste. All owners shall exercise good faith to maintain sufficient, well-kept containers to meet their generators' requirements for recycling purposes. Adequacy and the number of separate, marked containers shall be based upon the size of the facility. All owners shall exercise good faith to meet preparation standards for recyclables providing suitable containers for that purpose. Owners shall regularly, periodically notify all users and occupants of the facilities of the recycling programs provided in this paragraph.
 - I. Prohibited Practices in Collection and Handling of Recyclables. No person, persons or other entity generating waste within the municipality shall do any of the following:
 1. Mix or permit intermixing of recyclables and non-recyclable materials intended for collection by a collector/hauler or intended to be processed at a material recycling facility unless good faith to recycle is shown.
 2. Deposit or cause to be deposited any recyclable material at any authorized collection point when the site is closed or not operating.
 3. Deposit or cause to be deposited any recyclable material in or upon any public street, public waters, or public grounds in the municipality except at authorized locations within appropriate packaging or placed into appropriate containers during specifically authorized collection periods.

4. Deposit or cause to be deposited any recyclable material in any container not specifically intended for the collection of that type or group of recyclable material.
5. Deposit or cause to be deposited any non-recyclable material in any container specifically intended for the collection or deposit of recyclable material.

SECTION VII – ANTI-SCAVENGING PROVISION

Persons shall not pilfer recyclables or disturb recyclables once those materials are placed for collection. All recyclable materials placed for collection pursuant to this ordinance shall thereupon become the property of the municipality, or, the municipality's authorized agent, or, a private collector/hauler whom persons in the municipality have contracted to perform functions pursuant to the recycling plan provided in this ordinance. Only persons authorized by the municipality or the generator of waste shall collect or handle recyclable materials once those materials have been placed appropriately for collection. Any and each collection by unauthorized persons in violation of this provision shall constitute a separate and distinct offense punishable as provided hereinafter.

SECTION VIII – VIOLATION AND PENALTY

Any person who violates any provisions of this ordinance or any regulations promulgated pursuant to this ordinance shall forfeit upon conviction thereof not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00) for each separate violation hereunder, provided that the range of forfeiture for the third and any subsequent violation of this ordinance or regulations promulgated pursuant thereto within a twelve month period shall be not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for each separate violation. Each incident of violations shall be separate offense and each day or part thereof during which a violation occurs or continues shall be deemed a separate offense.

Enforcement:

- A. For the purpose of ascertaining compliance with the provisions of this ordinance, any authorized officer, employee or representative of the Town of Berry may inspect recyclable materials separated for recycling, postconsumer waste intended for disposal, recycling collection sites and 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 of Berry 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 ordinance may be issued a citation by the Town of Berry to collect forfeitures. The issuance of a citation shall not preclude proceedings 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 paragraph.

SECTION IX – PROMULGATION OF REGULATIONS

The Town Board shall prepare regulations, standards and schedules as necessary to make effective all provisions of this ordinance. Periodically, upon a schedule adopted by the municipality, the Town Clerk shall prepare notices and distribute other information to persons and entities generating waste within the Village for the purpose of informing the public about the requirements dictated by this mandatory source separation recycling ordinance.

SECTION X – CONSISTENCY

All ordinances of the Town or parts of those ordinances construed to be inconsistent with this ordinance for the purpose of achieving an effective recycling program in the municipality shall be hereby repealed as to such inconsistency only for the limited purpose of making effective all provisions in this ordinance.

SECTION XI – EFFECTIVE DATE

This ordinance is effective on publication or posting. The town clerk shall properly post or publish this ordinance as required under s. [60.80](#), Wis. stats.

Dated this 18th day of June, 2012

Published: June 28, 2012

Brenda Kahl, Clerk/Treasurer
Don Witmer-Kean, Supervisor
Jim Laubmeier, Supervisor

Anthony Varda, Chair
Chris Upper, Supervisor
Bill Carlson, Supervisor