206.1 Recycling Ordinance

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SECTION I – PURPOSE
The purpose of this ordinance shall be to maintain and protect public health and sanitation by removal of solid waste and other material generated in the Town, to eliminate dispersal of waste material along the roads and other public and private properties in and near the Town, and to provide a comprehensive Town recycling program. The Town Board finds participation in a mandatory source separation recycling program appropriate in this jurisdiction to conserve local landfill capacity. The Town Board also finds participation in these programs appropriate to achieve consistency with county-wide and state-wide recycling policies to ensure that the waste generated in the Town will be able to be delivered to the county-owned landfills and the county owned material recycling facilities.

SECTION II – 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 ranted 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 III – APPLICABILITY
This ordinance shall apply to all persons, entities and waste generating activities within the limits of the Town of Berry and includes but is not limited to all waste generated by all residential and commercial activities.

SECTION IV – DEFINITIONS

For the purpose of this ordinance:

A. Collector/Hauler. The contractor or entity chosen by the Town Board to collect, handle, transport and dispose of the solid waste, recyclables and non-recyclables, generated in the Town, 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. Bi-metal container. A container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.

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

D. Demolition waste. The portion of solid waste from the repair, remodeling, construction or reconstruction of buildings, such as lumber, roofing and sheathing scraps, rubble, broken concrete, asphalt, plaster, conduit, wire, insulation and other materials resulting from the demolition of buildings and improvements.

E. Dwelling unit. A place of habitation occupied by normal single-family unit or a combination of persons who may be considered as equivalent to a single-family unit for the purpose of this ordinance.

F. Foam polystyrene packaging. Packaging made primarily from foam polystyrene that satisfies one of the following criteria. Is designed for serving food or beverages, consists of loose particles intended to fill space and cushion the packaged article in a shipping container, or consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.

G. Glass containers. Glass bottle, jar or other packaging container used to contain a product that is the subject of a retail sale and does not include ceramic cups, dishes, oven ware, plate glass, safety and window glass, heat-resistant glass such as pyrex, lead based glass such as crystal, or TV tubes.

H. Hazardous waste or hazardous substance. Those wastes or substances defined as such 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), Wisconsin Statutes, 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 herein. 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.

I. HDPE. High density polyethylene, labeled by the resin code #2.

J. Lead-acid batteries. 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.

K. LDPE. Low density polyethylene, labeled by the resin code #4.

L. Magazines. Magazines and other materials printed on similar paper.

M. Major appliance. A residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, furnace, boiler, dehumidifier, water heater or stove.

N. Multi-family dwelling. A structure containing five or more residential units, including units that are occupied seasonally.

O. Newspapers. A newspaper and other materials printed on newsprint.

P. Non-residential facilities and properties. Commercial, retail, industrial, institutional and government facilities and properties. Non-residential facilities and properties includes any location at which goods or services are provided or manufactured, including locations under construction, demolition, or remodeling, or used for special events. This term does not include multiple family dwellings.

Q. Office paper. A variety of high-grade printing and writing papers. This term does not include industrial process waste, newspaper or packaging.

R. Other resins or multiple resins. Plastic resins labeled by the resin code #7.

S. Person. Includes any individual, corporation, limited liability company, partnership, association, local government unit, as defined in section 66.0131(1)(a) Wisconsin Statutes, state agency or authority or federal agency.

T. PETE or PET. Polyethylene terephthalate, labeled by the resin code #1.

U. Plastic container. An individual, separate, rigid plastic bottle, can, jar or carton, except for a blister pack, that is originally used to contain a product that is subject of a retail sale.

V. Postconsumer wastes. Solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in Section 291.01(7), Wisconsin Statutes, waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste, as defined in Section 289.01(17), Wisconsin Statutes.

W. PP. Polypropylene, labeled by the resin code #5.

X. PS. Polystyrene, labeled by the resin code #6.

Y. PVC. Polyvinyl chloride, labeled by the resin code #3.

Z. Recyclable material. 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.

AA. Solid waste. The meaning specified in Section 289.01(33), Wisconsin Statute.

BB. Solid waste facility. The meaning specified in Section 289.01(35) Wisconsin Statute.

CC. Solid waste treatment. Any method, technique or process which is designed to change the physical, chemical or biological character or composition of solid waste. Treatment includes incineration.

DD. Waste oil. A petroleum-based or synthetic oil that has become unsuitable for its original purpose due to contamination with impurities, such as dirt, metal shavings, or water, or a loss of its original properties. It encompasses both used oil from machinery and vehicles and off-spec or unused oils that fail to meet quality standards.

EE. Waste tire. A tire that is no longer suitable for its original purpose because of wear, damage or defect.

FF. Yard waste. 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 or shrubs with intact root balls.

SECTION V – SEPARATION OF RECYCLABLE MATERIALS

Occupants of single family and two to four unit residences, multiple-family dwellings and non-residential 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

SECTION VI – SEPARATION REQUIREMENTS EXEMPTED

The separation requirements in Section V do not apply to the following:

A. Occupants of single family and 2-to-4-unit residences, multiple-family dwellings and non-residential facilities and properties that send their postconsumer waste to a processing facility licensed by the Wisconsin Department of Natural Resources that recovers the materials specified in Section V from solid waste in as pure a form as is technically feasible.

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

C. A recyclable material specified in Section V, letters A-O, for which a variance has been granted by the Department of Natural Resources under Section 287.11(2m), Wisconsin Statutes or Section NR 544.14, Wisconsin Administrative Code.

SECTION VII – CARE OF SEPARATED RECYCLABLE MATERIALS

To the greatest extent practicable, the recyclable materials separated in accordance with Section V shall be clean and kept free of contaminants such as food or product residue, oil or grease, or other non-recyclable 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. Lead-acid batteries shall have all caps firmly attached and be free from leaks. Waste 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.

SECTION VIII – 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 Section V, letters E-O:

1. Provide adequate, separate containers for the recycling program established in compliance with the ordinance. The number of recycling containers shall equal or be

greater than the number of trash containers and at least one of the following shall be met:

i. The minimum total volume of recycling container space is equal to 20 gallons per week per dwelling unit.
ii. The ratio of trash container volume to recycling container volume is at most 2:1.
iii. An alternative method that does not result in the overflow of a recycling container during the time period between collection of materials and delivery to a recycling facility.

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 which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, and locations of drop-off collection sites to recycle materials not collected on-site.

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

C. It shall be the responsibility of every occupant, tenant, or proprietor of any residential unit to provide and at all times keep in a suitable place readily accessible to the refuse collector, containers capable of holding all solid waste which would ordinarily accumulate on such premises between the times of successive collections. The owner of any multiple dwelling shall furnish proper containers. Containers located at multiple dwellings shall be marked so as to indicate the residential unit to which they belong.

SECTION IX – RESPONSIBILITIES OF OWNERS OR DESIGNATED AGENTS OF NON-RESIDENTIAL FACILITIES AND PROPERTIES

A. Owners or designated agents of non-residential facilities and properties shall do all of the following to recycle the materials specified in Section V, letters E-O:

1. Provide adequate, separate containers for the recycling program established under this section. The total volume of recycling containers shall be sufficient to avoid overflow during the time period between collection of materials and delivery to a recycling facility.
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 which materials are collected, how to prepare materials in order to meet the processing requirements, collection methods or sites, and locations of drop-off collection sites to recycle materials not collected on-site.

B. The requirements specified in A do not apply to the owners or designated agents of non-residential facilities and properties if the postconsumer waste generated within the facility or property is treated at a processing facility licensed by the Department of Natural

Resources that recovers for recycling the materials specified in Section V, letters E-O, from solid waste in as pure a form as is technically feasible.

SECTION X – 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 Section V, letters E-O, that have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.

SECTION XI – 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 Town, or, the Town's authorized agent, or, a private collector/hauler whom persons in the Town have contracted to perform functions pursuant to the recycling plan provided in this ordinance. Only persons authorized by the Town 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 XII – DISPOSAL OF NON-REYCLABLE MATERIALS – SOLID WASTE

A. Non-recyclable materials shall be separated from recyclable materials and shall be placed for collection by the Town's authorized collector. Materials shall be placed in the proper containers as per the contract with the authorized collector. All containers shall be kept in a neat, clean and sanitary condition at all times.

B. Prohibited Materials. These items are banned from the landfill because they are considered household hazardous waste and are harmful to the environment, they require special disposal methods.

1. Asbestos and asbestos containing materials.
2. Appliances and electronics.
3. Batteries.
4. Cleanfill. Concrete, brick, and dirt shall not be co-mingled with other items.
5. Explosives, gasses, solvents, corrosives and poisons.
6. Fluorescent bulbs and ballasts.
7. Oil, used oil filters and oil absorbents.
8. Paints that are liquid and chemicals.
9. Propane tanks and propane cylinders.
10. Sharps, needles and biological hazards.
11. Tires.
12. Yard waste, bush, grass and leaves.

SECTION XIII – RESTRICTIONS ON LOCATIONS AND TIME PERIODS FOR CONTAINERS

A. All containers for non-recyclables and recyclable materials that are placed adjacent to the public road for collection as designated by the collector shall be placed adjacent to the public road not earlier than twenty-four hours before the regular collection time and shall

be removed from the curbside collection point within twenty-four hours after the regular collection time.

B. The time for collection shall be determined by the authorized collector, as approved by the Town Board.

SECTION XIV – 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, collection vehicles, collection areas of multiple-family dwellings and non-residential 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 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 paragraph.

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

1. Any person who violates Section X may be required to forfeit $50 for a first violation, $200 for a second violation, and not more than $2,000 for a third or subsequent violation.
2. Any person who violates a provision of this ordinance, except Section X, may be required to forfeit not less than $10 or more than $1,000 for each violation.

SECTION XV – 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 Town for the purpose of informing the public about the requirements dictated by this mandatory source separation recycling ordinance.

SECTION XVI – EFFECTIVE DATE

This ordinance shall take effect and be in force from and after the day after passage and publication as required by law.

Dated this 20th day of October, 2025

Brenda Kahl, Clerk/Treasurer
David Evert, Supervisor
Nichole Schwoerer, Supervisor

Published: October 23, 2025

Duane Haag, Chair
Michael Statz, Supervisor
Derek Statz, Supervisor