

**TOWN OF LYNDON
SHEBOYGAN COUNTY, WISCONSIN**

ORDINANCE NO. 9 OF 2005

1.01 Title. Recycling Ordinance for the Town of Lyndon, Sheboygan County, Wisconsin.

1.02 Purpose. The purpose of this ordinance is to promote recycling, composting, and resource recovery through the administration of an effective recycling program, as provided in s. 287.11, Wis. Stats., and Chapter NR 544, Wis. Administrative Code.

1.03 Statutory Authority. This ordinance is adopted as authorized under s. 287.09(3) (b), Wis. Stats.

1.04 Abrogation and Greater Restrictions. It is not intended by this ordinance 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 ordinance imposes greater restrictions, the provisions of this ordinance shall apply. Prior ordinances of The Town of Lyndon with regard to collection, recycling and disposal of solid wastes and recyclable materials are repealed.

1.05 Interpretation. In their interpretation and application, the provisions of this ordinance 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 ordinance may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this ordinance is required by Wisconsin Statutes, or by a standard in Chapter NR 544, Wis. Administrative Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the Wisconsin Statutes and the Chapter NR 544 standards in effect on the date of the adoption of this ordinance, or in effect on the date of the most recent text amendment to this ordinance.

1.06 Severability. Should a court of competent jurisdiction declare any portion of this ordinance unconstitutional or invalid, the remainder of this ordinance shall not be affected.

1.07 Applicability. The requirements of this ordinance apply to all persons within The Town of Lyndon.

1.08 Administration. The provisions of this ordinance shall be administered by The Town of Lyndon, Board of Supervisors

1.09 Effective Date. The provisions of this ordinance shall take effect on January 1, 2006.

1.10 Definitions. For the purpose of this ordinance:

- 1) “Bi-metal container” means a container for carbonated or malt beverages that are made primarily of a combination of steel and aluminum.
- 2) “Container board” means corrugated paperboard used in the manufacture of shipping containers and related products.
- 3) “Foam polystyrene packaging” means packaging made primarily from foam polystyrene that satisfies one of the following criteria:
 - a) Is designed for containing or serving food or beverages.

- b) Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.
- c) Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.
- 4) "HDPE" means high density polyethylene, labeled by the SPI code # 2.
- 5) "LDPE" means low density polyethylene, labeled by the SPI code # 4.
- 6) "Magazines" means magazines and other materials printed on similar paper.
- 7) "Major appliance" means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, furnace, boiler, dehumidifier, water heater or stove.
- 8) "Multiple-family dwelling" means a property containing 5 or more residential units, including those which are occupied seasonally.
- 9) "Newspaper" means a newspaper and other materials printed on newsprint.
- 10) "Non-residential facilities and properties" means commercial, retail, industrial, institutional and government facilities and properties. This term does not include multiple family dwellings.
- 11) "Office paper" means high grade printing and writing papers from offices in non-residential 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.
- 12) "Other resins or multiple resins" mean plastic resins labeled by the SPI code # 7.
- 13) "Person" includes any individual, corporation, partnership, association, local government unit, as defined in s. 287.01(5m), Wis. Stats., state agency or authority or federal agency.
- 14) "PETE" means polyethylene terephthalate, labeled by the SPI code # 1.
- 15) "Plastic container" means 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 the subject of a retail sale.
- 16) "Postconsumer waste" means solid waste other than: solid waste generated in the production of goods; hazardous waste, as defined in s. 287.01(7), Wis. Stats.; waste from construction and demolition of structures; scrap automobiles; or high-volume industrial waste, as defined in s. 289.01(17), Wis. Stats.
- 17) "PP" means polypropylene, labeled by the SPI code # 5.
- 18) "PS" means polystyrene, labeled by the SPI code # 6.
- 19) "PVC" means polyvinyl chloride, labeled by the SPI code # 3.
- 20) "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.
- 21) "Solid waste" has the meaning specified in s. 289.01(33), Wis. Stats.
- 22) "Solid waste facility" has the meaning specified in s. 289.01(35), Wis. Stats.
- 23) "Solid waste treatment" means any method, technique or process which is designed to change the physical, chemical or biological character or composition of solid waste. "Treatment" includes incineration.
- 24) "Waste tire" means a tire that is no longer suitable for its original purpose because of wear, damage or defect.
- 25) "Yard waste" means leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than 6 inches in diameter. This term does not include stumps, roots or shrubs with intact root balls.

1.11 Separation of Recyclable Materials. Occupants of single family and 2 to 4 unit residences, multiple-family dwellings and non-residential facilities and properties shall separate the following materials from postconsumer waste:

- 1) Lead acid batteries
- 2) Major appliances
- 3) Waste oil
- 4) Yard waste
- 5) Aluminum containers
- 6) Bi-metal containers
- 7) Corrugated paper or other container board
- 8) Foam polystyrene packaging
- 9) Glass containers
- 10) Magazines
- 11) Newspaper
- 12) Office paper
- 13) Rigid plastic containers made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or multiple resins
- 14) Steel containers
- 15) Waste tires

1.12 Separation Requirements Exempted. The separation requirements of s. 1.11 do not apply to the following:

- 1) 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 s. 1.11 from solid waste in as pure a form as is technically feasible.
- 2) If less than 30 % of the heat input to a facility is derived from the solid waste which is burned as a supplemental fuel at that facility in accordance with s. 287.07(7)(bg), Wis. Stats.
- 3) Foam polystyrene packaging and rigid plastic containers made of PVC (#3), LDPE (#4), PP (#5), PS (#6), and other resins or multiple resins (#7). These items have been granted a separation variance by the Department of Natural Resources under s. 287.07(7)(h), Wis. Stats.

1.13 Care of Separated Recyclable Materials. To the greatest extent practicable, the recyclable materials separated in accordance with s. 1.11 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 weather conditions that could reduce the marketability of the recyclable materials.

1.14 Management of Lead Acid Batteries, Major Appliances, Waste Oil and Yard Waste. Occupants of single family and 2 to 4 unit residences, multiple-family dwellings and non-residential facilities and properties shall manage lead acid batteries, major appliances, waste oil, and yard waste as follows:

- 1) Lead acid batteries shall be delivered to the designated collection site.
- 2) Major appliances shall be delivered to the designated collection site.
- 3) Waste oil shall be delivered to the designated collection site.
- 4) Yard waste shall be delivered to the designated collection site and brush shall be cut to four (4) foot lengths.

1.15 Preparation and Collection of Recyclable Materials. Except as otherwise directed by the Town of Lyndon Board of Supervisors, occupants of single family and 2 to 4 unit residences shall do the following for the preparation and collection of the separated materials specified in s. 1.11(5) through (15):

- 1) Aluminum containers shall be cleaned and delivered to the designated collection site. Bi-metal containers shall be cleaned and delivered to the designated collection site
- 2) Corrugated paper or other container board shall be flattened, bundled, tied and delivered to the designated collection site
- 3) Glass containers shall be cleaned and delivered to the designated collection site.
- 4) Magazines shall be bundled, tied and cleaned and delivered to the designated collection site.
- 5) Newspaper shall be bundled, tied and cleaned and delivered to the designated collection site
- 6) Office paper shall be contained and delivered to the designated collection site
- 7) Rigid plastic containers shall be prepared and collected as follows:
 - a) Plastic containers made of PETE (SPI code #1), shall be delivered to the designated collection site.
 - b) Plastic containers made of HDPE (SPI code #2 shall be delivered to the designated collection site.
- 9) Steel containers shall be cleaned and delivered to the designated collection site.
- 10) Waste tires shall be delivered to the designated collection site.

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

- 1) Owners or designated agents of multiple-family dwellings shall do all of the following to recycle the materials specified in s. 1.11(5) through (15):
 - a) Provide adequate, separate containers for the recyclable materials.
 - b) Notify tenants in writing at the time of renting or leasing the dwelling and at least semi-annually thereafter about the established recycling program.
 - c) 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.
 - d) 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.
- 2) The requirements specified in 1) do not apply to the owners or designated agents of multiple-family dwellings if:
 - (a) 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 s. 1.11(5) through (15) from solid waste in as pure a form as is technically feasible.
 - (b) Less than 30 % of the heat input to a facility is derived from the solid waste which is burned as a supplemental fuel at that facility in accordance with s. 287.07(7)(bg), Wis. Stats.
 - (c) Items have been granted a separation variance by the Department of Natural Resources under s. 287.07(7) (h), Wis. Stats. Currently the items which need not be separated from solid waste are foam polystyrene packaging and rigid plastic containers made of PVC (#3), LDPE (#4), PP (#5), PS (#6), and other resins or multiple resins (#7).

1.17 Responsibilities of Owners or Designated Agents of Non-Residential Facilities and Properties.

- 1) Owners or designated agents of non-residential facilities and properties shall do all of the following to recycle the materials specified in s. 1.11(5) through (15):
 - (a) Provide adequate, separate containers for the recyclable materials.

- (b) Notify in writing, at least semi-annually, all users, tenants and occupants of the properties about the established recycling program.
 - (c) 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.
 - (d) 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.
- 2) The requirements specified in 1) do not apply to the owners or designated agents of multiple-family dwellings if:
- (a) 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 s. 1.11(5) through (15) from solid waste in as pure a form as is technically feasible.
 - (b) Less than 30 % of the heat input to a facility is derived from the solid waste which is burned as a supplemental fuel at that facility in accordance with s. 287.07(7)(bg), Wis. Stats.
 - (c) Items have been granted a separation variance by the Department of Natural Resources under s. 287.07(7)(h), Wis. Stats. Currently the items which need not be separated from solid wastes are foam polystyrene packaging and rigid plastic containers made of PVC (#3), LDPE (#4), PP (#5), PS (#6), and other resins or multiple resins (#7).

1.18 Responsibilities of haulers to collect recyclables and report tonnages.

- (1) Any garbage hauler doing business in the Town of Lyndon for any resident shall also provide a curbside pickup service for recyclable materials for the Town of Lyndon customers.
- (2) Annual tonnages, broken down by types of recyclables, for all such customers served by the hauler shall be reported by the hauler to the Town of Lyndon by February 1 of the following year.

1.19 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 s. 1.11 (5) through (15) which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.

1.20 Right to Reject

- (1) The Contractor has the right to reject any postconsumer waste or recyclable material which is not separated and prepared according to this ordinance.
- (2) The Contractor shall notify the generator of the materials, in writing, of the reason for rejecting the materials.
- (3) The Contractor shall maintain a list of rejection and provide that list to the Town of Lyndon upon request.

1.21 Exemptions. (1) The Town of Lyndon reserves the right to designate additional solid waste materials as recyclable materials or currently recyclable materials as no longer recyclable according to Wisconsin Statutes and Wisconsin Administrative Code.

- (2) The Town of Lyndon may either add or delete solid waste and recyclable materials from collection services provided by the Town of Lyndon or its contractor.
- (3) The Town of Lyndon or its contractor shall give written notice of changes in service according to this section.

1.22 Charges, (1) Postconsumer waste shall be accepted at the collection site for a charge.

- (2) Recyclable materials including yard waste, aluminum containers, corrugated paper, other container board foam, polystyrene packaging, glass containers, magazines, newspaper, office paper, rigid plastic containers, steel containers and bi-metal containers shall be accepted at the collection site at no charge.
- (3) Scrap metal items shall be accepted at the collection site at no charge.
- (4) Recyclable and other materials including, but not limited to lead acid batteries, major appliances, waste oil, waste tires, furniture television sets, construction materials and roofing materials shall be accepted at the collection site at appropriate, reasonable charges as set by the contractor.

1.23 Enforcement.

- 1) For the purpose of ascertaining compliance with the provisions of this ordinance, any authorized officer, employee or representative of the Town of Lyndon 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 Lyndon who requests access for purposes of inspection, and who presents appropriate credentials. No person may obstruct, hamper, or interfere with such an inspection.
- 2) Any person who violates a provision of this ordinance may be issued a citation by a representative of the Town of Lyndon authorized to collect forfeitures. The issuance of a citation in regards to this paragraph shall not preclude proceeding under any other ordinance or law relating to the same or any other matter.
- 3) Penalties for violating this ordinance may be assessed as follows:
 - (a) Any person who violates s. 1.18 may be required to forfeit \$50 for a first violation, \$200 for a second violation, and not more than \$2000 for a third or subsequent violation.
 - (b) Any person who violates a provision of this ordinance, except s. 1.18, may be required to forfeit not less than \$10 nor more than \$1000 for each violation.

Section 7. Severability

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to his end the provisions of this ordinance are severable.

Section 8. Effective date

Following passage by the Town Board, this Ordinance shall take effect the day after the date of publication or posting as required by s. 60.80, Wis. stats.

Adopted this 14th day of December 2005.

Published/Posted this 29th day of December, 2005