

**TOWN OF LAFAYETTE**  
**RECYCLING AND SOLID WASTE DISPOSAL**  
**ORDINANCE 5 - 01**

The Town Board of the Town of LaFayette, Walworth County, Wisconsin does hereby ordain as follows:

The Town of LaFayette Recycling Ordinance adopted March 15, 1994, is hereby repealed and recreated to read as follows:

**SECTION 1.0            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 § 287.11, WI Statutes, and Chapter NR 544, Wisconsin Administrative Code.

**SECTION 2.0            AUTHORITY**

This ordinance is adopted as authorized under § 287.09(3)(b), WI Statutes.

**SECTION 3.0            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.

**SECTION 4.0            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, Wisconsin 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.

**SECTION 5.0            APPLICABILITY**

The requirements of this ordinance apply to all persons within the Town of LaFayette.

**SECTION 6.0            ADMINISTRATION**

The provisions of this ordinance shall be administered by the Town of LaFayette.

**SECTION 7.0            EFFECTIVE DATE**

The provisions of this ordinance shall take effect on the date of publication.

**SECTION 8.0            DEFINITIONS**

For the purposes of this ordinance:

- A. "Approved container" means a validated garbage receptacle, clear plastic bag, carton throwaway container, none of which shall exceed forty pounds (40#) in weight.
- B. "Bi-metal container" means a container for carbonated or a malt beverage that is made primarily of a combination of steel and aluminum.
- C. "Container board" means corrugated paperboard used in the manufacture of shipping containers and related products.
- D. "Contractor" means a licensed solid waste hauler contracted by the Town Board to provide service as instructed by contract and this ordinance.
- E. "Curbside recycling and solid waste service" means the collection by the contractor of recyclables and solid waste that have been placed at the curbside by participating residents.
- F. "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.
- G. "HDPE" means high density polyethylene, labeled by the SPI code #2.
- H. "LDPE" means low density polyethylene, labeled by the SPI code #4.
- I. "Magazines" means magazines and other materials printed on similar paper.
- J. "Major appliance" means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, furnace, boiler, dehumidifier, water heater, stove, or household furniture.
- K. "Multiple-family dwelling" means a property containing five (5) or more residential units, including those which are occupied seasonally.
- L. "Newspaper" means a newspaper and other materials printed on newsprint.
- M. "Non-residential facilities and properties" means commercial, retail, industrial, institutional and governmental facilities and properties. This term does not include multiple family dwelling.
- N. "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.
- O. "Other resins or multiple resins" mean plastic resins labeled by the SPI code #7.
- P. "Participating residents" means all residents of the Town of LaFayette of single to four (4) unit households eligible to receive curbside recycling and solid waste pick up service.
- Q. "Person" includes any individual, corporation, partnership, association, local governmental unit, as defined in § 66.0131(1)(a), WI Statutes, state agency or authority or federal agency.

- R. "PETE" means polyethylene terephthalate, labeled by the SPI code #1.
- S. "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, and as defined in § 100.33(1)(c), WI Statutes, that is required to be labeled under § 100.33(2), WI Statutes.
- T. "Post-consumer waste" means solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in § 291.01(7), WI Statutes, waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste, as defined in § 289.01(17), WI Statutes.
- U. "PP" means polypropylene, labeled by the SPI code #5.
- V. "PS" means polystyrene, labeled by the SPI code #6.
- W. "PVC" means polyvinyl chloride, labeled by the SPI code #3.
- X. "Recyclables material report" means on a monthly basis the contractor shall submit to the Town Board a report that identifies weight of recyclables and summarizes volumes of each recyclables, etc. The report shall contain the identity of each facility where recyclables were taken and provide appropriate verification that recyclables were recycled.
- Y. "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; newspapers; office paper; rigid plastic containers, including those made of PETE, DHPE, PVC, LDPE, PP, PS, and other resins or multiple resins; steel containers, waste tires; and bi-metal containers.
- Z. "Scheduled collection day" means the normal, customary, and scheduled day that the contractor has informed or agreed with the participating residents to collect recyclables and solid waste materials.
- AA. "Solid waste" has the meaning specified in § 289.01(34), WI Statutes.
- BB. "Solid waste facility" has the meaning specified in § 289.01(35), WI Statutes.
- CC. "Solid waste treatment" has the meaning given in § 289.01(39), WI Statutes.
- DD. "Waste tire" means a tire that is no longer suitable for its original purpose because of wear, damage or defect.
- EE. "Yard waste" means leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than six inches (6") in diameter. This term does not include stumps, roots or shrubs with intact root balls.

## **SECTION 9.0 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 post-consumer waste:

- A. Lead acid batteries.
- B. Major appliances, except microwave ovens from which the capacitor has been removed.
- 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 10.0 SEPARATION REQUIREMENTS EXEMPTED**

The separation requirements of Section 9.0 above do not apply to the following:

- A. Occupants of single family and two to four (2 to 4) unit residences, multiple-family dwellings and non-residential 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 10.0 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 thirty percent (30%) of the heat input to the facility is derived from the solid waste burned as supplemental fuel.
- C. A recyclable material specified in Section 9.0, E. through O. above, for which a variance has been granted by the Department of Natural Resources under § 287.11(2m), WI Statutes, or § NR 544.14, Wisconsin Administrative Code.

**SECTION 11.0 CARE OF SEPARATED RECYCLABLE MATERIALS**

To the greatest extent practicable, the recyclable materials separated in accordance with Section 9.0 above shall be clean, and kept free of contaminants such as food or produce 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. The collector of recyclables shall be entitled to refuse to accept recyclables that are contaminated or otherwise in a condition that makes recycling infeasible.

**SECTION 12.0 SOLID WASTE (NON-RECYCLABLE) TRASH PICKUP, RESIDENTIAL UNITS**

All solid waste (other household trash and garbage) shall be placed in an approved container specified by the Town. Curbside pickup is provided only to residential units in the Town. Multi-residential units, commercial units, non-profit organizations and governmental units shall be required to separate recyclables from trash and garbage and dispose of all such items in a lawful manner even though curbside pickup is not provided to such units in the Town.

### **SECTION 13.0 OTHER DISPOSAL**

The Town will not provide for disposal of branches and debris not mentioned in this ordinance. All debris shall be disposed of by the residents of the Town at their expense and be disposed of in a lawful manner.

### **SECTION 14.0 MANAGEMENT OF LEAD ACID BATTERIES, MAJOR APPLIANCES, WASTE OIL AND YARD WASTE**

Occupants of single family and two to four (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:

- A. Lead acid batteries shall be placed at the roadside separated from solid waste for collection by the Town's solid waste contractor. Car, truck, and other automotive batteries will only be collected. Battery casing must be unbroken.
- B. Major appliances shall be placed at roadside separated from solid waste for collection by the Town's solid waste contractor, except that a microwave oven may be disposed of with solid waste if the capacitor has been removed. Appliances shall be upright and empty. Freezers and refrigerators must have doors removed. Town residents must contact the Town's solid waste contractor to arrange for collection of all appliances.
- C. Waste oil shall be placed at roadside separated from solid waste for collection by the Town's solid waste contractor. Common engine oil only will be collected. Such oil must be in leak-proof non-breakable containers of a maximum size of one (1) gallon.
- D. Yard waste shall be composted by the homeowner via backyard composting or other methods available to the homeowner.

### **SECTION 15.0 PREPARATION AND COLLECTION OF RECYCLABLE MATERIALS**

- A. Each residential and commercial unit in the Town of LaFayette shall be provided with one authorized recycling collection container per unit. All recyclable materials shall be prepared as herein below directed. Such container for recyclables shall be placed within five feet (5') of the roadside prior to 6:00 a.m. on the designated day of pick up in an area of easy accessibility for collection in the same manner and at the same time as regular garbage collection occurs. All non-recyclable materials must be contained in an approved container. Recyclables that have been scattered by wind, animals, or vandals shall be the responsibility of the residents.
- B. Commercial establishments will receive the same curbside service as residential units from the Town's solid waste contractor. Those commercial establishments which require more than one recycling container for use in containing recyclables will be required to contract separately, at their own expense, if any, for the handling of such additional recyclables.
- C. Except as otherwise directed by the Town Board for the Town of LaFayette, occupants of single family and two to four (2 to 4) unit residences shall do the following for the preparation and collection of the separated materials specified in Section 9.0, E. through O. above:

1. Aluminum containers shall be rinsed and placed in the recycling container provided for collection. No aluminum foil, TV dinner trays, etc., will be collected. Aluminum beverage cans only.
2. Bi-metal containers shall be rinsed and have labels removed and shall be placed in the recycling container provided for collection. Containers may be flattened to save space within the recycling container.
3. Corrugated paper or other container board shall be flattened and tied in bundles and placed along side the recycling container for collection.
4. Foam polystyrene packing will be collected for recycling.
5. Glass containers shall be rinsed, all metal and plastic caps and rings shall be removed, and the containers shall be placed in the recycling container for collection.
6. Magazines shall be tied in bundles and placed along or within the recycling container for collection.
7. Newspaper shall be tied in bundles and placed along or within the recycling container for collection.
8. Office paper shall be placed inside paper grocery bags and placed along or within the recycling container for collection.
9. Plastic containers made of PETE shall be rinsed and placed within the recycling container for collection. Containers may be flattened to save space within the recycling container.
10. Plastic containers made of HDPE shall be rinsed and placed within the recycling container for collection. Containers may be flattened to save space within the recycling container.
11. Plastic containers made of PVC, LDPE, PP, PS, and other resins or multiple resins will be collected for recycling.
12. Steel containers shall be rinsed, labels removed and placed in the recycling container provided for collection. Containers may be flattened to save space within the recycling container.
13. Waste tires shall be placed at roadside separated from solid waste for collection by the Town's solid waste contractor. Car, truck, and other tires not exceeding four (4') feet in diameter or eighty (80#) pounds in weight will be collected.
14. Other products which the Town Board may designate from time to time shall be placed as directed by the Town Board.

**SECTION 16.0                    RESPONSIBILITIES OF OWNERS OR DESIGNATED AGENTS OF  
MULTIPLE-FAMILY DWELLINGS**

- A. Owners or designated agents of multi-family dwellings shall do all of the following to recycle the materials specified in Sections 9.0, E. through 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 recycling facilities.
  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 Section 16.0 A. 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 Department of Natural Resources that recovers for recycling the materials specified in Section 9.0, E. through O. above, from solid waste in as pure a form as is technically feasible.

**SECTION 17.0                    RESPONSIBILITIES OF OWNERS OR DESIGNATED AGENTS OF  
NONRESIDENTIAL 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 9.0, E. through 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 Section 17.0 A. do not apply to the owners or designated agents of non-residential dwellings if the post-consumer 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 9.0, E. through O. above, from solid waste in as pure a form as is technically feasible.

**SECTION 18.0                    PAYMENT PROCEDURE**

- A. Owners of properties identified to receive roadside or other pick up service will be billed for a portion of such service by the Town of LaFayette or the Town's solid waste contractor on an annual basis. Owners shall be given such time to pay such annual fee as the designated solid waste contractor specifies in its contract with the Town of LaFayette. If no contact is made by the property owner to arrange payment during such specific period, such account will be designated as delinquent on an annual reconciliation report which shall be provided to the Town by the solid waste contractor. Said annual reconciliation report shall show accounts billed and payment status thereof and shall be provided to the Town no later than August 1 of each year for its review and approval.
- B. After reviewing and approving such annual reconciliation report, the Town Board shall make payment to the solid waste contractor for all accounts noted as delinquent. The Town shall pay the solid waste contractor the delinquent amount plus a fixed fee per delinquent account, such fee to be designated in the Town's contract with the solid waste contractor. The delinquent account, together with a fixed fee in the amount of one hundred dollars (\$100) to cover administrative and other collection costs,

shall then become a lien on the property against which it is levied or made, from the date of the charge, to the same extent as a lien for a tax levied upon real property. Any unpaid recycling fee shall be certified to the taxation district in which the property is located, placed on the tax roll and collected as delinquent real estate taxes are collected pursuant to § 66.0701, WI Statutes.

**SECTION 19.0 TOWN OF LAFAYETTE RECYCLING COMMITTEE**

The Town Board of the Town of LaFayette shall appoint a Township Recycling Committee to coordinate and develop the educational programs necessary to implement the curbside collection program.

**SECTION 20.0 PROMULGATION OF REGULATIONS**

The Town Board shall prepare regulations, standards, and schedules as necessary to make effective all provisions of this ordinance. Periodically, the Town Board shall have notices prepared and shall 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 21.0 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 9.0, E. through O. which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.

**SECTION 22.0 RECYCLABLES FROM OUTSIDE OF THE TOWN**

No person shall bring recyclables or refuse from outside the Town of LaFayette limits into the Town limits for disposal by the Town of LaFayette, its collector, or a private hauler unless specifically authorized by agreement with the Town of LaFayette.

**SECTION 23.0 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 with 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 24.0 INSURANCE**

The contractor/collector must obtain and provide the Town of LaFayette Town Board with a Certificate of Insurance indicating the following minimum levels of insurance coverage:

- A. Worker's Compensation Insurance as required by Chapter 102 of the Wisconsin Laws.
- B. Comprehensive General Liability, Bodily Injury and Property Damage in minimum coverage amounts of one million dollars (\$1,000,000) combined single limit liability.
- C. Comprehensive Vehicle Transport Liability, Bodily Injury and Property Damage in minimum amounts of one million dollars (\$1,000,000) combined single limit liability.



**SECTION 25.0 CONFORM WITH APPLICABLE LAWS**

Collection and transportation of recyclables shall be accomplished in accordance with all laws, rules, ordinances, and future amendments thereto, of the State of Wisconsin, its agencies and local governing bodies and departments.

**SECTION 26.0 LICENSING**

- A. Solid waste haulers/contractors that collect solid waste or recyclables in the Town of LaFayette shall be licensed by the Town when providing service to residents, providing service to residential multifamily dwellings and non-residential facilities and properties of this municipality. Any solid waste haulers/contractors licensed by the Town of LaFayette shall provide on a monthly basis a recyclables material report as defined in this ordinance and on a monthly basis the amount of solid waste collected and transported, solid waste processed and/or marketed by item type and the final disposal location of the solid waste material. Failure to report shall be cause for the Town to revoke any license or sever any contract with the solid waste haulers/contractors.
- B. Solid waste haulers/contractors who collect solid waste or recyclables in the Town of LaFayette shall obtain and maintain all necessary municipal and state permits, licenses, and approval prior to collecting any materials in the Town of LaFayette.
- C. No person or corporation shall engage in the business of hauling recyclables or solid waste within the Town without being licensed by Wisconsin Department of Natural Resources under § NR 502.06 Wisconsin Administrative Code.
- D. The solid waste haulers/contractors licensed by the Town of LaFayette shall provide a completed notice to the Town clerk explaining why solid waste or recyclable materials were unacceptable for collection.

**SECTION 27.0 INDEMNITY**

The contractor agrees to Indemnify and hold harmless the Town, its officers, agents, and employees from and against any and all loss or expenses that may arise by reason of liability for damage, injury or death or for invasion of personal or property rights, of every name and nature, and whether casual or continuing trespass or nuisance and any other claim for damages arising at law and equity alleged to have been caused or sustain in whole or in part of the contractor, its employees or agents or because of any joint omission of duty, negligence or wrongful act on the part of the contractor and the town, their employees or agents. The contractor shall be responsible for any damages caused to Town facilities and equipment due to the contractor's equipment, personnel, or vehicles used to fulfill work instructed by contract and this ordinance.

**SECTION 28.0 ENFORCEMENT**

- A. For the purpose of ascertaining compliance with the provisions of this ordinance, any authorized Town officer, Town employee or representative of the Town of LaFayette or member of the Walworth County Sheriff's Department 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 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 Town officer, Town employee, or authorized representative of the Town of LaFayette or Walworth County Sheriff's Department, 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 LaFayette chair. 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 22.0 above, may be required to forfeit fifty dollars (\$50) for a first violation, two hundred dollars (\$200) for a second violation, and not more than two thousand dollars (\$2,000) for a third or subsequent violation.
2. Any person who violates a provision of this ordinance, except Section 22.0 above, may be required to forfeit not less than ten dollars (\$10) nor more than one thousand dollars (\$1,000) for each violation.

D. Each incident of violation shall be a separate offense and each day or part thereof during which a violation occurs shall be deemed a separate offense.

**SECTION 29.0 SEVERABILITY**

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

This Ordinance adopted by the Town Board of the Town of LaFayette of this 8<sup>th</sup> day of April 2009.

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Bruno Schiffleger, Chair

Passed this day: 04.08.2009

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Barbara A. Fischer, Town Clerk-Treasurer

Filed this day: 04.08.2009