

ENROLLED ORDINANCE 173-068

REPEAL AND RECREATE THE TEXT OF CHAPTER 14, ARTICLE IV OF THE CODE OF ORDINANCES, THE WAUKESHA COUNTY RECYCLING AND SOLID WASTE ORDINANCE, TO INCORPORATE REVISED STATE RECYCLING RULES AND LAWS AND TO MODERNIZE VARIOUS CODE PROVISIONS, AND CREATE A FORFEITURE SCHEDULE

WHEREAS, the Waukesha County Board of Supervisors enacted the Waukesha County Recycling Ordinance on December 13, 1994 and it currently is found in Chapter 14, Article IV of the Waukesha County Code of Ordinances; and

WHEREAS, Waukesha County serves as a “Responsible Unit” for twenty-seven (27) local communities under Chapter 287 Wisconsin Statutes and Chapter NR 544 Wisconsin Administrative Code; and

WHEREAS, state law requires a Responsible Unit to maintain a recycling ordinance as part of the requirements for an “effective recycling program”; and

WHEREAS, the existing Waukesha County Recycling and Solid Waste Ordinance needs to be amended and updated to recognize changes to state recycling rules and laws and the substantial financial resources involved in local collection, processing and sale of recyclables, and

WHEREAS, enforcement of the Waukesha County Recycling and Solid Waste Ordinance necessitates the creation of a corresponding Forfeiture Schedule for violations.

WHEREAS, the proposed amendments to the text of the Waukesha County Recycling and Solid Waste Ordinance, as well as the corresponding Forfeiture Schedule for violations, are available for viewing on the Waukesha County website at www.waukeshacounty.gov/recyclingordinance, are on file in the office of the Waukesha County Department of Parks and Land Use, and are an attachment to this ordinance.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the text of the Recycling and Solid Waste Ordinance, found in Chapter 14, Article IV of the Waukesha County Code of Ordinances, is hereby repealed and recreated in accordance with the proposed amendments on file with the Department of Parks and Land Use and as set forth in the attached Exhibit A, effective as of January 1, 2019.

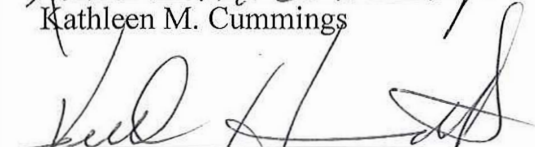
BE IT FURTHER ORDAINED that a Forfeiture Schedule for violations of the Recycling and Solid Waste Ordinance at Chapter 14, Article IV of the Code of Ordinances, is hereby created and approved in accordance with the proposed Forfeiture Schedule on file with the Department of Parks and Land Use and as set forth in the attached Exhibit B, effective as of January 1, 2019.

REPEAL AND RECREATE THE TEXT OF CHAPTER 14, ARTICLE IV OF THE CODE OF ORDINANCES, THE WAUKESHA COUNTY RECYCLING AND SOLID WASTE ORDINANCE, TO INCORPORATE REVISED STATE RECYCLING RULES AND LAWS AND TO MODERNIZE VARIOUS CODE PROVISIONS, AND CREATE A FORFEITURE SCHEDULE

Presented by:
Land Use, Parks, and Environment Committee

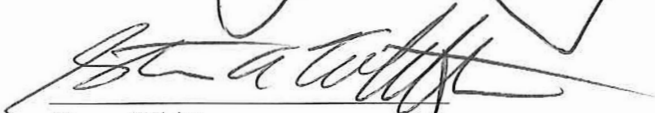

David D. Zimmermann, Chair



Kathleen M. Cummings


Keith Hammitt

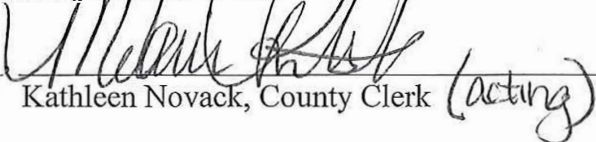

William A. Mitchell


Thomas J. Schellinger


Steve Whittow


Chuck Wood

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: 12/21/18 
Kathleen Novack, County Clerk (acting)

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved: X
Vetoed: _____
Date: 12-28-18 
Paul Farrow, County Executive

Exhibit A

Draft of Amendments to
CHAPTER 14
(as of 11/28/18)

ARTICLE IV. RECYCLING AND SOLID WASTE

Division I. Recycling

Sec. 14-251 Purpose.

The purpose of this article is to promote recycling, composting, and resource recovery through the administration of an effective recycling program for the Waukesha County Responsible Unit areas. The administration of an effective recycling program will extend the useful life of landfills, conserve natural resources, salvage materials for reprocessing, conserve energy, and improve the environment by lessening landfill deposits, as recognized in Chapter 287, Wisconsin Statutes, and Chapter NR 544, Wisconsin Administrative Code.

(Ord. No. 149-91, § 1, 12-13-94. Section 14-251 was repealed and recreated by Enrolled Ordinance 173-xx, effective xx-xx-2018.)

Sec. 14-252 Statutory authority.

This article is adopted as authorized and required by section 287.09 and section 287.11, Wisconsin Statutes and Chapter NR 544, Wisconsin Administrative Code.

(Ord. No. 149-91, § 1, 12-13-94. Section 14-252 was repealed and recreated by Enrolled Ordinance 173-xx, effective xx-xx-2018.)

Sec. 14-253 Abrogation and greater restrictions.

This article is not intended to repeal, abrogate, annul, impair or interfere with any existing rules, regulations, articles or permits previously adopted or issued pursuant to law. However, whenever this article is more restrictive or imposes higher standards or requirements, this article shall govern.

(Ord. No. 149-91, § 1, 12-13-94. Section 14-253 was repealed and recreated by Enrolled Ordinance 173-xx, effective xx-xx-2018.)

Sec. 14-254 Interpretation.

In their interpretation and application, the provisions of this article shall be held to be 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 article may be inconsistent or may conflict with one another, the more restrictive terms or requirements shall apply. Where a provision of this article is required by state statute or by a state administrative regulation, and where the article provision is unclear, the provision shall be interpreted in light of the state statute or state administrative regulation in effect on the date of the adoption of this article [Ord. No. 149-91, adopted December 13, 1994], or in effect on the date of the most recent text amendment to this article.

(Ord. No. 149-91, § 1, 12-13-94. Section 14-254 was repealed and recreated by Enrolled Ordinance 173-xx, effective xx-xx-2018.)

Sec. 14-255 (Reserved).

Sec. 14-256 Severability.

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

(Ord. No. 149-91, § 1, 12-13-94. Section 14-256 was repealed and recreated by Enrolled Ordinance 173-xx, effective xx-xx-2018.)

Sec. 14-257 Applicability.

(a) This article shall be in effect and enforced in those towns, villages and cities in Waukesha County for which Waukesha County is the Responsible Unit pursuant to section 287.09(1), Wisconsin Statutes, as listed below:

1. City of Brookfield
2. City of Delafield
3. City of Muskego
4. City of New Berlin
5. City of Oconomowoc
6. City of Pewaukee
7. City of Waukesha
8. Town of Brookfield
9. Town of Delafield
10. Town of Lisbon
11. Town of Merton
12. Town of Oconomowoc
13. Town of Vernon
14. Town of Waukesha
15. Village of Big Bend
16. Village of Chenequa
17. Village of Dousman
18. Village of Eagle
19. Village of Elm Grove
20. Village of Hartland
21. Village of Lac La Belle
22. Village of Merton
23. Village of Nashotah
24. Village of Oconomowoc Lake
25. Village of Pewaukee
26. Village of Summit
27. Village of Wales

(b) This article shall not apply to or be enforced in those towns, villages and cities in Waukesha County which retain their own Responsible Unit status pursuant to section 287.09(1), Wisconsin Statutes.

(c) Nothing in this article shall prohibit a Member Municipality from adopting this article as its own and enforcing that adopted article.

(Ord. No. 149-91, § 1, 12-13-94. Section 14-257 was repealed and recreated by Enrolled Ordinance 173-xx, effective xx-xx-2018.)

Sec. 14-258 Administration.

This article shall be administered and enforced by Waukesha County through the Department of Parks
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and Land Use.

(Ord. No. 149-91, § 1, 12-13-94. Section 14-258 was repealed and recreated by Enrolled Ordinance 173-xx, effective xx-xx-2018.)

Sec. 14-259 Definitions.

For the purposes of this article, the following words, terms and phrases have the following meanings, except as otherwise specially provided elsewhere in this article:

1. *Bi-metal Container* means a container for carbonated or malt beverages that is 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. *Electronics* means any device that requires electric current to function and contains a circuit board such as computers, monitors, laptops, tablets, cellphones, facsimile machines, copiers, televisions, video cassette recorders, digital versatile disc players and recorders, radios, telephones, printers and other related peripheral devices.
4. *Foam Polystyrene Packaging* means packaging made primarily from foam polystyrene that satisfies one (1) of the following criteria:
 - A. Is designed for 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.
5. *Glass Container* means a glass bottle, jar or other packaging 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 television tubes.
6. *Hauler* means a Person who is authorized to remove Solid Waste or Recyclable Materials from the generating source.
7. *HDPE* means high density polyethylene, currently labeled by the Society of the Plastics Industry, Inc. code as #2, or as amended by future federal or state rules or regulations.
8. *LDPE* means low density polyethylene, currently labeled by the Society of the Plastics Industry, Inc. code as #4, or as amended by future federal or state rules or regulations.
9. *Magazine* means magazines and other materials printed on similar paper.
10. *Major Appliance* means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, oven, refrigerator, stove, furnace, boiler, dehumidifier or water heater.
11. *Member Municipality* means any town, village or city listed at Section 14-257(a) for which Waukesha County is the "Responsible Unit" under section 287.09(1), Wisconsin Statutes.

12. *Multiple-family Dwelling* means a structure containing five (5) or more residential units, including those which are occupied seasonally.
13. *Newspaper* means a newspaper and other materials printed on newsprint.
14. *Non-residential Facilities and properties* means commercial, retail, industrial, institutional and governmental facilities and properties which are not used for residential purposes. This term does not include Multiple-family Dwellings.
15. *Office Paper* means high grade printing and writing paper 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.
16. *Other Resins or Multiple Resins* means plastic resins currently labeled by the Society of the Plastics industry, Inc. code as #7, or as amended by future federal or state rules or regulations.
17. *Person* includes any individual, corporation, partnership, association, local governmental unit as defined in section 66.0131(1)(a), Wisconsin Statutes, state agency or authority, or federal agency.
18. *PETE* means polyethylene terephthalate, currently labeled by the Society of the Plastics Industry, Inc. code as #1, or as amended by future federal or state rules or regulations.
19. *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.
20. *Postconsumer Waste* means Solid Waste other than Solid Waste generated in the production of goods, hazardous waste as defined in section 291.01, Wisconsin Statutes, waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste.
21. *PP* means polypropylene, currently labeled by the Society of the Plastics Industry, Inc. code as #5, or as amended by future federal or state rules or regulations.
22. *PS* means polystyrene, currently labeled by the Society of the Plastics Industry, Inc. code as #6, or as amended by future federal or state rules or regulations.
23. *PVC* means polyvinyl chloride, currently labeled by the Society of the Plastics Industry, Inc. code as #3, or as amended by future federal or state rules or regulations.
24. *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, 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.
25. *Responsible Party* means the landowner, or any Person, firm, corporation, contractor, subcontractor or other entity obligated by other agreement to perform services related to the separation, collection, transportation, and delivery of materials subject to this ordinance.
26. *Responsible Unit* has the meaning specified in section 287.01(9), Wisconsin Statutes

27. *Solid Waste* has the meaning specified in section 289.01(33), Wisconsin Statutes.
28. *Solid Waste Facility* has the meaning specified in section 289.01(35), Wisconsin Statutes.
29. *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, including incineration.
30. *Waste Oil* means any oil that, after use, is contaminated by physical or chemical impurities, including oil used in mechanical equipment as a lubricant, hydraulic fluid or heat transfer fluid.
31. *Waste Tire* means a tire that is no longer suitable for its original purpose because of wear, damage or defect.
32. *Yard Waste* means leaves, grass clippings, yard and garden debris and brush, including clean, woody vegetative material no greater than six (6) inches in diameter. This term does not include stumps, roots or shrubs with intact root balls.

(Ord. No. 149-91, § 1, 12-13-94. Section 14-259 was repealed and recreated by Enrolled Ordinance 173-xx, effective xx-xx-2018.)

Sec. 14-260 Separation of Recyclable Materials.

Separation requirements. Occupants of single-family residences, two (2) to four (4) unit residences, Multiple-family Dwellings and Non-residential Facilities and properties shall separate the following materials from Postconsumer Waste for recycling, unless exempted under Section 14-261 below, or otherwise approved by Waukesha County:

1. Lead acid batteries
2. Major Appliances
3. Waste Oil, used oil filters and oil absorbent materials
4. Yard Waste
5. Aluminum containers
6. Bi-metal Containers
7. Corrugated paper or other Container Board
8. Electronics
9. Foam Polystyrene Packaging
10. Glass Containers
11. Magazines
12. Newspaper
13. Office Paper
14. Plastic Containers made of PETE, HDPE, PVC, LDPE, PP, PS, and Other Resins or Multiple Resins
15. Steel containers
16. Waste Tires

(Ord. No. 149-91, § 1, 12-13-94. Section 14-260 was repealed and recreated by Enrolled Ordinance 173-xx, effective xx-xx-2018.)

Sec. 14-261 Separation requirements exempted.

The separation requirements of Section 14-260 do not apply to the following:

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1. Occupants of single-family residences, two to four-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 14-260 from Solid Waste in as pure a form as is technically feasible.
2. Solid Waste which is burned as a supplemental fuel at a facility if less than thirty (30) percent of the heat input to the facility is derived from the Solid Waste burned as supplemental fuel.
3. A Recyclable Material specified in Section 14-260(5) through (14) 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 Administration Code.

(Ord. No. 149-91, § 1, 12-13-94. Section 14-261 was repealed and recreated by Enrolled Ordinance 173-xx, effective xx-xx-2018.)

Sec. 14-262 Care of separated Recyclable Materials.

(a) To the greatest extent practicable, the Recyclable Materials separated for collection in accordance with Section 14-260 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.

(b) Separated Recyclable Materials shall be handled in accordance with section NR 544.05, Wisconsin Administrative Code.

(Ord. No. 149-91, § 1, 12-13-94. Section 14-262 was repealed and recreated by Enrolled Ordinance 173-xx, effective xx-xx-2018.)

Sec. 14-263 Management of Lead Acid Batteries, Major Appliances, Waste Oil, Used Oil Filters, Yard Waste, Electronics, and Waste Tires.

Occupants of single-family residences, two (2) to four (4) unit residences, Multiple-family Dwellings and Non-residential Facilities and properties shall manage lead acid batteries, Major Appliances, Waste Oil, Yard Waste, Electronics and Waste Tires as follows:

1. *Lead acid batteries* shall not be landfilled or incinerated, in accordance with section 287.07(1m), Wisconsin Statutes. Lead acid batteries may be managed through battery retailers and may also be collected for recycling by local municipal drop-off sites, private Haulers, scrap dealers or landfill operators.
2. *Major Appliances* shall not be landfilled or incinerated, in accordance with section 287.07(1m), Wisconsin Statutes. Major Appliances may be delivered to a scrap dealer/recycler for proper processing.
3. *Waste Oil* shall not be landfilled nor burned without energy recovery, in accordance with section 287.07(1m), Wisconsin Statutes. Waste Oil shall be delivered to a municipal or private Waste Oil collection site and shall be free of materials which would cause the Waste Oil to be non-recyclable.
4. *Used oil filters and oil absorbent materials* shall not be landfilled nor burned, except as defined and authorized under section 287.07(4m), Wisconsin Statutes.

5. *Yard Waste* shall not be landfilled or burned without energy recovery in a Solid Waste Facility, in accordance with section 287.07(2), Wisconsin Statutes except as authorized by the Wisconsin Department of Natural Resources at a licensed wood-burning facility. Yard Waste may be delivered to a compost facility or municipal collection site, or managed through home composting, source reduction or other methods as permitted by state statutes or local ordinance.
6. *Electronics* shall not be landfilled nor burned in a Solid Waste Treatment Facility, in accordance with section 287.07(5), Wisconsin Statutes. Electronics shall be donated to a willing party, or recycled at a registered electronics collector/recycler or other municipal/retail electronics collection site.
7. *Waste Tires*, shall not be landfilled or burned without energy recovery, in accordance with section 287.07(3), Wisconsin Statutes.

(Ord. No. 149-91, § 1, 12-13-94. Section 14-263 was repealed and recreated by Enrolled Ordinance 173-xx, effective xx-xx-2018.)

Sec. 14-264 Collection, delivery and reporting of Recyclable Materials.

(a) *Collection.*

1. Unless otherwise directed in writing by Waukesha County, or unless granted a variance by the Wisconsin Department of Natural Resources, a Member Municipality shall:
 - A. Collect materials listed in Section 14-260(5) through (14) from single-family residences and two (2) to four (4) unit residences, and do so in a manner consistent with this article; or
 - B. Contract for the collection of materials listed in Section 14-260(5) through (14) from single family residences and two (2) to four (4) unit residences, and to do so in a manner consistent with this article.
2. Haulers providing private Solid Waste collection service directly to residents, Multiple-family Dwellings and Non-residential Facilities and properties shall provide for the collection of materials listed under Section 14-260(5) through (14), unless otherwise directed in writing by Waukesha County or granted a variance by the Wisconsin Department of Natural Resources.

At the time of contract execution, Haulers shall notify owners of Multiple-family Dwellings and Non-residential Facilities and properties in writing about their recycling obligations under Section 14-265.

3. Unless prior written authorization is provided by Waukesha County or the Department of Natural Resources, Recyclable Materials that are separated for collection under 1. and 2. above shall not be:
 - A. Mixed with, or otherwise come into contact with Solid Waste during or after the collection process,
 - B. Be disposed of in a Solid Waste Facility,
 - C. Be burned, subject to the exemption under Section 14-261(2) above, or
 - D. Be scavenged by any Person, or otherwise removed from designated containers.

(b) *Delivery.*

Unless approved in writing by Waukesha County, Recyclable Materials collected in Member Municipalities under subsection (a) above shall be delivered to a facility designated by Waukesha County.

(c) *Reporting.*

Member Municipalities shall report, or require that contracted Haulers report, all Solid Waste and Recyclable Material collected. Reports shall be rectified and submitted to Waukesha County in accordance with County standards, including the following minimum requirements:

1. Daily.

For each vehicle entering the facility designated under subsection (b) above, report the vehicle number, route number, time delivered, tons delivered, Hauler name, and source municipality. For any vehicle containing Recyclable Material from more than one municipality, the Hauler shall prorate the load according to percentage of households served, up to a maximum of two (2) municipalities. All reports shall be rectified with the facility and Waukesha County daily; and

2. Monthly.

Report monthly tonnage delivered to a Solid Waste Facility and to the facility under subsection (b) above by municipality, (including prorated amounts by route number), and the number of non-compliance notices delivered to residents. Rectify reports with the facility under subsection (b) above and Waukesha County by the 10th of the following month using the daily reports under subsection 1. above by source municipality; and

3. Annually.

A. Report by February 15th each year, Member Municipalities served the previous year, service type, total households, vehicle numbers used, route numbers, number of households served per route, total tons Solid Waste delivered to a Solid Waste Facility, total tons Recyclable Material delivered under subsection (b) above, including prorated amounts, non-compliant notices to households delivered, educational materials delivered, and other items as may be required by Waukesha County or municipal collection contracts.

B. Report by January 15th of each year, Member Municipalities to be served the current year, service type, total households, vehicle numbers used, route numbers, number of households served per route, proposed shared routes and prorated amounts per Member Municipality, and other items as may be required by Waukesha County or municipal collection contracts.

(Ord. No. 149-91, § 1, 12-13-94. Section 14-264 was repealed and recreated by Enrolled Ordinance 173-xx, effective xx-xx-2018.)

Sec. 14-265 Responsibilities of owners of Multiple-family Dwellings, Non-residential Facilities and properties.

(a) Owners of Multiple-family Dwellings and Non-residential Facilities and properties shall do all of the following to cause the Recyclable Materials specified in Section 14-260(5) through (14) to be recycled:

1. Provide adequate, separate containers for the Recyclable Materials.

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2. Provide for the collection of the separated Recyclable Materials and the delivery of the separated Recyclable Materials to a recycling facility.
3. At the time of renting or leasing the unit, and at least twice each year thereafter, notify tenants and occupants in writing about the established recycling program, 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 (a) do not apply to the owners of Multiple-family Dwellings, or designated agents of nonresidential facilities and properties, if the Postconsumer Waste generated within the dwelling, facility or property is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the Recyclable Materials specified in section 14-260(5) through (14) from Solid Waste in as pure a form as is technically feasible.

(Ord. No. 149-91, § 1, 12-13-94. Section 14-265 was repealed and recreated by Enrolled Ordinance 173-265, effective xx-xx-2018.)

Sec. 14-266 (Reserved).

(Sec. 14-266 was repealed by Enrolled Ordinance 173-xxx, effective xx-xx-2018, and some of the content was recreated in Sec. 14-265.)

Sec. 14-267 Prohibitions on disposal or burning of Recyclable Materials.

No Person may dispose of in a Solid Waste Disposal Facility or burn in a Solid Waste Treatment Facility without energy recovery any of the materials specified in Section 14-260(1) through (15), unless otherwise approved by Waukesha County or the Department of Natural Resources.

(Ord. No. 149-91, § 1, 12-13-94. Section 14-267 was repealed and recreated by Enrolled Ordinance 173-xx, effective xx-xx-2018.)

Sec. 14-268 Miscellaneous provisions.

(a) *Waukesha County purchasing of recycled content, multiple-use, durable materials, equipment and supplies.* Waukesha County shall, to the extent financially practicable, make purchasing decisions to maximize the purchasing of products made from recycled and recovered materials.

Waukesha County shall, to the extent financially practicable, consider recyclability and recycled content when awarding contracts for equipment, construction materials and supplies. The county wishes to discourage the purchase of single-use disposable products and to encourage the purchase of multiple-use, durable products which meet specifications.

(b) *Dumping provisions.* It shall be unlawful for any Person to dispose of or dump Solid Waste in any street, alley or other place, or to place it in any receptacle, without the owner's consent.

(Ord. No. 149-91, § 1, 12-13-94. Section 14-268 was repealed and recreated by Enrolled Ordinance 173-xx, effective xx-xx-2018.)

Sec. 14-269 Enforcement.

(a) *Inspections.*

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For the purpose of ascertaining and ensuring compliance with the provisions of this article but for no other purpose, any authorized officer, employee or representative of Waukesha County may inspect materials separated for recycling, Postconsumer Waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection operations, collection areas of Multiple-family Dwellings and Nonresidential Facilities and properties, and any records relating to recycling activities, which shall be kept confidential to the extent permitted by law. No Person may refuse access to any authorized officer, employee or authorized representative of Waukesha County who requests access for purposes of inspection, and who presents appropriate credentials. No Person may obstruct, hamper, or interfere with such an inspection.

(b) Prohibited Practices.

Failure to comply with any requirement of this ordinance shall be deemed a violation, and shall subject the Responsible Party to enforcement action. Prohibited practices shall include, but not be limited to the following:

1. Failing to manage Recyclable Materials at Multiple-family Dwellings, Non-residential Facilities and properties, in accordance with Section 14-265
2. Failing to care for separated Recyclable Materials in accordance with Section 14-262
3. Mixing separated Recyclable Material with Solid Waste, as prohibited under Section 14-264(a)3.A
4. Failing to deliver Recyclable Materials collected under Section 14-264 to a facility approved by Waukesha County under section 14-264(b)
5. Scavenging of Recyclable Materials, as prohibited under Section 14-264(a)3.D
6. Burning Recyclable Materials, as prohibited under Section 14-267
7. Failing to meet reporting requirements under Section 14-264(c)
8. Unlawful dumping, as prohibited under Section 14-268(b)

(c) Violations.

Waukesha County shall notify the Responsible Party of any violation, in writing, and copy any other known Responsible Party involved in the violation, and any Member Municipality that may be in contract with the Responsible Party. The written notice shall be hand delivered to the Responsible Party or sent to the last known street or email address, with a reasonable attempt to verify that the Responsible Party received the notice. The notice shall describe the violation and may require specific remedial action(s) and a schedule for all remedial action to be completed. Any enforcement measures shall continue until compliance is achieved or as ordered by the court. Waukesha County is authorized to use the following methods of enforcement in any combination thereof against a Responsible Party that is found to be in violation of any provision of this ordinance:

1. Forfeiture. Any violator shall be subject to a forfeiture of not less than \$50 or more than \$3,000 plus damages, applicable fees and prosecution costs for each violation. Each day that a violation exists shall constitute a separate offense.
2. Corrective Action Plan. Any violator may be required to prepare a corrective action plan,

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which shall be approved by Waukesha County. At a minimum, the corrective action plan shall include the following:

- A. Measures to be taken to correct the violation, including any technical specifications involved
 - B. Assignment of responsibilities for plan implementation, including names, titles and contact information
 - C. Timeline for plan implementation
3. Damages. For any violation that results in the loss of Recyclable Material, the Responsible Party shall be subject to damages for the value of the lost revenue based on the most recent collection and market records.
 4. Stop Work Order. Any violator is subject to an order to stop all work except that which is needed as a corrective action to obtain compliance.
 5. Injunction. The County, or any Person affected by activities regulated under this ordinance, may enforce the provisions of this ordinance by a temporary restraining order, injunction and other such relief as a court may order.
 6. Declared nuisances. Any violation is hereby declared to be a nuisance *per se*, and the County may apply to any court of competent jurisdiction to restrain or abate such nuisance.
 7. Emergency Action. Waukesha County may enter upon the property and take any necessary emergency action if the County determines that the violation is an immediate threat to public health, safety, welfare, or the environment, or if the violator refuses to take the corrective action as ordered by the County. Any cost incurred by the County as a result of this action shall be billed to the Responsible Party. The County shall provide reasonable notice to the Responsible Party after exercising this authority.
 8. Citation. The County elects to also use the citation method of enforcement under section 66.0113 of the Wisconsin Statutes for violations of this ordinance, including those for which a statutory counterpart exists. The procedures contained in section 66.0113(3) of the Wisconsin Statutes, relating to the options of an alleged violator and default are adopted and incorporated herein by reference.
 - A. Authority to issue a citation under this ordinance shall be limited to the Land Resources Division Manager or his/her designee. This subsection does not preclude the County or any authorized officer from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance regulation or order.
 - B. The schedule of cash deposits including penalty assessment, jail assessment, crime lab assessment, drug/law enforcement assessment, any applicable domestic abuse or consumer information assessments or any other assessment applicable by law for use with citations issued under this section shall be as adopted by the County Board from time to time and such schedule shall be on file in the Offices of the Sheriff, Land Resources Division of the Department of Parks and Land Use, County Clerk and Clerk of Court. Receipts shall be given for cash deposits. The citation shall contain the following information:
 - i. The name and address of the alleged violator

- ii. The factual allegations describing the alleged violation
- iii. The time and place of the offense
- iv. The section of the ordinance violated
- v. A designation of the offense in such a manner as can be reasonably understood by a Person making a reasonable effort to do so
- vi. The time at which the alleged violator may appear in court
- vii. A statement which, in essence, informs the alleged violator:
 - a. That a cash deposit based on the schedule established by the County Board, from time to time, be made to and deposited with the Clerk of the Waukesha County Circuit Court or the Sheriff's Department prior to the time of the scheduled court appearance.
 - b. That if a deposit is made, no appearance in court is necessary unless the violator is subsequently summoned or the citation requests a court appearance.
 - c. That if a cash deposit is made and the alleged violator does not appear in court, the violator will be deemed to have entered a plea of no contest and submitted to a forfeiture, a penalty assessment, a jail assessment, crime lab assessment, drug/law enforcement assessment and any applicable domestic abuse or consumer information assessments or, if the court does not accept the plea of no contest, a summons will be issued commanding him or her to appear in court to answer the complaint.
 - d. That if no cash deposit is made and the alleged violator does not appear in court at the time specified, the court may issue a summons or a warrant for the defendant's arrest or consider the nonappearance to be a plea of no contest and enter judgment or an action may be commenced to collect the forfeiture, penalty assessment, jail assessment, crime lab assessment, drug/law enforcement assessment and any applicable domestic abuse or consumer information assessments.
 - e. That if the court finds that the violation involves an ordinance that prohibits conduct that is the same as or similar to conduct prohibited by state statute punishable by fine or imprisonment or both, and that the violation resulted in damage to the property of or physical injury to a Person other than the alleged violator, the court may summon the alleged violator into court to determine if restitution shall be ordered.
- viii. A direction that if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the statement required under subsection (vii) above has been read. Such statement shall be sent or brought with the cash deposit.
- ix. Such other information as the County deems necessary.

C. Payment of the forfeiture does not relieve the violator from the obligation to remedy the ordinance violation.

(Ord. No. 149-91, § 1, 12-13-94. Section 14-269 was repealed and recreated by Enrolled Ordinance 173-xx, effective xx-xx-2018.)

Secs. 14-270 to 14-280 (Reserved).

N:\CORPCSEL\Ordinance and Resolution Processing\Recycling and Solid Waste CH 14 Article IV by PLU\Draft of Amendments to CH 14, Article IV as Exhibit A.docx

Exhibit B

Forfeiture Schedule
Chapter 14, Article IV of the Waukesha County Code of Ordinances
Recycling and Solid Waste

Authority	Offense	Base	Penalty	Court Costs	Crime Lab	Justice Info	Jail Assess	Court Services	Total
WCC Chapter 14 Article IV Sec. 14-260 - 268	Failure to properly sort or manage Recyclable Material before collection - 1st offense	\$50	\$13	\$25	\$13	\$22	\$10	\$68	\$201
WCC Chapter 14 Article IV Sec. 14-260 - 268	Failure to properly sort or manage Recyclable Material before collection - 2+ offenses	\$150	\$39	\$25	\$13	\$22	\$10	\$68	\$327
WCC Chapter 14 Article IV Sec. 14-264(a)3.D.	Scavenging of separated Recyclable Material - 1st offense	\$100	\$26	\$25	\$13	\$22	\$10	\$68	\$264
WCC Chapter 14 Article IV Sec. 14-264(a)3.D.	Scavenging of separated Recyclable Material - 2+ offenses	\$300	\$78	\$25	\$13	\$22	\$10	\$68	\$516
WCC Chapter 14 Article IV Sec. 14-264(c)	Failure to meet reporting requirements - 1st offense	\$100	\$26	\$25	\$13	\$22	\$10	\$68	\$264
WCC Chapter 14 Article IV Sec. 14-264(c)	Failure to meet reporting requirements - 2+ offenses	\$300	\$78	\$25	\$13	\$22	\$10	\$68	\$516
WCC Chapter 14 Article IV Sec. 14-264(a)3.	Mixing separated Recyclable Material with solid waste - 1st offense	\$1,000	\$260	\$25	\$13	\$22	\$10	\$68	\$1,398
WCC Chapter 14 Article IV Sec. 14-264(a)3.	Mixing separated Recyclable Material with solid waste - 2+ offenses	\$3,000	\$780	\$25	\$13	\$22	\$10	\$68	\$3,918
WCC Chapter 14 Article IV Sec. 14-264(a)&(b)	Failing to collect or deliver Recyclable Material to a County approved site - 1st offense	\$1,000	\$260	\$25	\$13	\$22	\$10	\$68	\$1,398
WCC Chapter 14 Article IV Sec. 14-264(a)&(b)	Failing to collect or deliver Recyclable Material to a County approved site - 2+ offenses	\$3,000	\$780	\$25	\$13	\$22	\$10	\$68	\$3,918

Note: The Waukesha County Department of Parks and Land Use is authorized to update this Forfeiture Schedule regarding statutory assessments, fees and costs as those amounts are periodically modified by the Wisconsin Legislature.

2018 draft

D1 - Foti	AYE	D14 - Wood	AYE
D2 - Zimmermann	(M) AYE	D15 - Mitchell	AYE
D3 - Morris	(2) AYE	D16 - Crowley	AYE
D4 - Batzko	AYE	D17 - Paulson	AYE
D5 - Dondlinger	AYE	D18 - Nelson	AYE
D6 - Walz	AYE	D19 - Cummings	AYE
D7 - Grant	AYE	D20 - Schellinger	AYE
D8 - Michalski	AYE	D21 - Gaughan	AYE
D9 - Heinrich	AYE	D22 - Wysocki	AYE
D10 - Swan	Absent	D23 - Hammitt	AYE
D11 - Howard	AYE	D24 - Whittow	Absent
D12 - Wolff	AYE	D25 - Johnson	AYE
D13 - Decker	AYE		

173-0-071

Passed (23 Y - 0 N - 2 Absent)

Majority Vote