

CHAPTER 20

RECYCLING

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20.01 TITLE.

This Ordinance shall be known as the Recycling Ordinance for the Town of Somers.

20.02 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 §159.11, Wis. Stats., and Chapter NR 544, Wisconsin Administrative Code.

20.03 STATUTORY AUTHORITY.

This ordinance is adopted as authorized under §287.09(3)(6), Wis. Stats., and NR 544.06 of the Wisconsin Administrative Code.

20.04 ABROGATION AND GREATER RESTRICTIONS.

It is not the intention of 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.

20.05 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, 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.

20.06 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.

20.07 APPLICABILITY.

The requirements of this ordinance apply to all persons within the corporate limits of the Town of Somers.

20.08 ADMINISTRATION.

The provisions of this ordinance shall be administered by the Town Administrator or his/her designee.

20.09 EFFECTIVE DATE.

The provisions of this ordinance shall take effect on January 1, 2005.

20.10 DEFINITIONS.

For purposes of this ordinance:

(A) "Bi-metal container" means a container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.

(B) "Container board" means corrugated paperboard used in the manufacture of shipping containers and related products.

(C) "Contractor Yard Waste" means brush, wood, and all materials contained in the definition of "yard waste" contained in subsection (AA) herein, which is generated by the labor, work, or efforts of a person, firm, or corporation on behalf of or at the insistence and/or request of an owner or occupant of real estate, regardless of whether such person, firm or corporation performing such services is compensated for such efforts.

(D) "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 articles in a shipping container.

(3) Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.

(E) "HDPE" means high density polyethylene, labeled by the SPI code #2.

(F) "LDPE" means low density polyethylene, labeled by the SPI code #4.

(G) "Magazines" means magazines and other materials printed on similar paper.

(H) "Major appliance" means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, stove, furnace, boiler, dehumidifier or water heater.

(I) "Multiple-family dwelling" means a property containing five (5) or more residential units, including those which are occupied seasonally.

(J) "Newspaper" means a newspaper and other materials printed on newsprint.

(K) "Non-residential facilities and properties" means commercial, retail, industrial, institutional and governmental facilities and properties. This term does not include multiple family

dwellings.

(L) "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.

(M) "Other resins or multiple resins" means plastic resins labeled by the SPI code #7.

(N) "Person" includes any individual, corporation, partnership, association, local governmental unit, as defined in §66.0131(1)(a), Wis. Stats., state agency or authority or federal agency.

(O) "PETE" means polyethylene terephthalate, labeled by the SPI code #1.

(P) "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.

(Q) "Postconsumer waste" means solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in §289.01(12), Wis. Stats., waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste, as defined in §289.01(17), Wis. Stats.

(R) "PP" means polypropylene, labeled by the SPI code #5.

(S) "PS" means polystyrene, labeled by the SPI code #6.

(T) "PVC" means polyvinyl chloride, labeled by the SPI code #3.

(U) "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.

(V) "Recycling Plan" means a comprehensive binding program of recycling by an owner or occupant of real estate including, but not limited to, contracting with a licensed waste hauler to fulfill such program requirements.

(W) "Solid waste" has the meaning specified in §289.05(33), Wis. Stats.

(X) "Solid waste facility" has the meaning specified in §289.01(35), Wis. Stats.

(Y) "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.

(Z) "Waste tire" means a tire that is no longer suitable for its original purpose because of wear, damage or defect.

(AA) "Yard waste" means leaves, grass clippings, yard and garden debris and brush, including clean wood vegetative material no greater than six (6") inches in diameter. This term does not include stumps, roots or shrubs with intact root balls.

20.11 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:

- (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.

20.12 SEPARATION REQUIREMENTS EXEMPTED.

The separation requirements of §20.11 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 §20.11 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 30% of the heat input to the facility is derived from the solid waste burned as supplemental fuel.

(C) A recyclable material specified in §20.11(E) through (O) for which a variance has been granted by the Department of Natural Resources under §287.11(2m), Wis. Stats., or §NR 544.14, Wisconsin Administrative Code.

20.13 CARE OF SEPARATED RECYCLABLE MATERIALS.

To the greatest extent practicable, the recyclable materials separated in accordance with §20.11 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 inclement weather conditions.

20.14 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:

(A) Lead acid batteries shall be deposited by the person responsible therefor pursuant to procedures established by the Town Administrator or his/her designee.

(B) Major appliances shall be placed at the curb for collection pursuant to procedures designated by the Town Administrator or his/her designee; further, there shall be an additional fee charged for the disposal of major appliances containing freon or similar substances.

(C) Waste oil shall be deposited by the person responsible therefore at the Town of Bristol waste oil collection location, as designated by the Town Administrator or his/her designee, or at another DNR approved site, all in accordance with regulations designated by the Town Administrator or his/her designee or the DNR, as may be applicable. No person shall deposit any material and shall only place waste oil in the containers at the location and at the time specified by the Town Administrator or his/her designee. No person shall damage or deface any portion of the Town of Bristol waste oil collection location.

(D) Yard waste shall be placed at appropriate collection points as are designated from time to time by the Town Administrator or his/her designee, composted on site or placed at the curb for collection at specified times of the year as designated by the Town Administrator or his/her designee. This provision shall not be applicable to contractor yard waste, which shall be placed at appropriate collection points as are designated in the permit issued pursuant to §20.19 of these ordinances.

(E) Antifreeze shall be deposited by the person responsible therefore at the Town of Bristol antifreeze collection location, as designated by the Town Administrator or his/her designee, or at another DNR approved site, all in accordance with regulations designated by the Town Administrator or his/her designee or the DNR, as may be applicable. No person shall deposit any material other than antifreeze at the Town of Bristol antifreeze collection location and shall only place antifreeze in the containers at the location and at the time specified by the Town Administrator or his/her designee. No person shall damage or deface any portion of the Town of Bristol antifreeze collection location.

20.15 PREPARATION AND COLLECTION OF RECYCLABLE MATERIALS.

Except as otherwise directed by the Town Administrator or his/her designee, 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 §20.11(E) through (O):

(A) Aluminum containers shall be placed in such containers as are designated and

provided by the Town Administrator or his/her designee.

(B) Bi-metal containers shall be rinsed free of produce residue and placed in such containers as are designated and provided by the Town Administrator or his/her designee.

(C) Corrugated paper or other container board shall be free of debris, flattened, stacked and tied, and placed at such location as are designated and provided by the Town Administrator or his/her designee.

(D) Foam polystyrene packaging shall be placed in such containers as are designated and provided by the Town Administrator or his/her designee.

(E) Glass containers shall be rinsed free of product residue and placed in such containers as are designated and provided by the Town Administrator or his/her designee.

(F) Magazines shall be stacked, tied and placed at such locations as are designated and provided by the Town Administrator or his/her designee.

(G) Newspaper shall be stacked, tied and placed at such locations as are designated and provided by the Town Administrator or his/her designee.

(H) Office paper shall be stacked, tied and placed at such locations as are designated and provided by the Town Administrator or his/her designee.

(I) Rigid plastic containers shall be prepared and collected as follows:

(1) Plastic containers made of PETE shall be rinsed free of product residue and placed in such containers as are designated and provided by the Town Administrator or his/her designee.

(2) Plastic containers made of HDPE shall be rinsed free of product residue and placed in such containers as are designated and provided by the Town Administrator or his/her designee.

(3) Plastic containers made of PVC, including milk jugs and detergent bottles, shall be rinsed free of product residue and placed in such containers as are designated and provided by the Town Administrator or his/her designee.

(4) Plastic containers made of LDPE shall be rinsed free of product residue and placed in such containers as are designated and provided by the Town Administrator or his/her designee.

(5) Plastic containers made of PP shall be rinsed free of product residue and placed in such containers as are designated and provided by the Town Administrator or his/her designee.

(6) Plastic containers made of PS shall be rinsed free of product residue and placed in such containers as are designated and provided by the Town Administrator or his/her designee.

(7) Plastic containers made of other resins or multiple resins shall be rinsed free of product residue and placed in such containers as are designated and provided by the Town Administrator or his/her designee.

(J) Steel containers shall be rinsed free of product residue and placed in such containers as are designated and provided by the Town Administrator or his/her designee.

(K) Waste tires shall be collected at such times and in such manner as designated and provided by the Town Administrator or his/her designee. All waste tires shall be removed from the wheel rim prior to collection.

20.16 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 §20.11(E) through (O):

- (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.
- (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 (A) do not apply to the owners or designated agents of multi-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 §20.11(E) through (O) from solid waste in as pure a form as is technically feasible.

20.17 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 §20.11(E) through (O):

- (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 (A) do not apply to the owners or designated agents of non-residential facilities and properties if the post-consumer 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 §20.11(E) through (O) from solid waste in as pure a form as is technically feasible. For purposes of compliance with these ordinances, written verification of the existence of a bona fide contract for the recovery of recyclable materials pursuant to this sub-paragraph shall be presumptive evidence of the existence of a Recycling Plan, as defined in §20.10(U).

20.18 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 §20.11(E) through (O) which have been separated for recycling, except waste tires and other materials may be burned with energy recovery in a solid waste treatment facility.

20.19 CONTRACTOR PERMIT FOR CONTRACTOR YARD WASTE.

No person, firm or corporation shall perform labor or services relating to the removal of any brush, branches, trees (or parts thereof), stumps or other matter known as contractor yard waste or yard waste, as defined herein, until first having applied for and securing a permit to do so at the location specified in such permit.

(A) **Permit Application.** Applications for permit shall be completed and submitted at least forty-eight (48) hours prior to the anticipated commencement of the activities described in the permit application and shall give, at a minimum, the applicant's name, residence, usual business, and the name of the owner and/or occupant of the premises for which the permit is sought. The permit deposit required in subparagraph (C) below shall accompany the application. No permit shall be issued except upon the approval of the Town Administrator or his/her designee which shall be responsible for the creation of the content of the permit application.

(B) **Regulations.**

(1) The permit, once obtained, shall be on site at the location for which the permit is obtained.

(2) A separate permit must be obtained for each parcel or address.

(3) Upon completion of the activities described in the permit application, the permittee shall cause all trimmings, cuttings, trees, debris or other matter described as contractor yard waste or yard waste to be removed from the premises and disposed of in a lawful manner in order to be eligible for return of the deposit described in subparagraph (C) below.

(C) **Deposit.** As a condition precedent to the granting of a permit, the applicant shall deposit with the Town Clerk/Treasurer the sum of One Hundred (\$100.00) Dollars, which amount shall be returned to the permittee upon completion of the conditions specified in this ordinance and as may be specified in the permit and after inspection of the subject premises by a designated representative of the

Town Administrator and certification by such representative that the premises have been left in a clean condition so that no further activity need be taken by the Town to remove contractor yard waste or yard waste therefrom. If the permittee fails to properly clean the premises or fails to remove all contractor yard waste or yard waste which has been generated by the activities of the applicant, the Town, its employees or representatives are authorized to enter upon the subject premises and remove or cause to be removed and dispose of such contractor yard waste or yard waste which may have been created by the activities of the applicant or others. The applicant and the owner shall be jointly and severally obligated to reimburse the Town for all costs in restoring the premises to its original condition. In the event that it becomes necessary for the Town to cause the removal of contractor yard waste or yard waste, in addition to the forfeiture of the deposit required hereunder, the owner shall have such costs imposed as a special assessment against the subject parcel if the cost therefore remains unpaid after thirty (30) days of being invoiced for the same.

(D) **Designated Representative.** The standing committee on recycling may designate one (1) or more employees, agents or representatives to act on its behalf in implementing the specific terms of this ordinance.

20.20 PLACEMENT OF CURBSIDE GARBAGE/RECYCLING.

No person, owner, designated agent of multiple-family dwellings or tenant shall place garbage, refuse or recyclables at or adjacent to the street right-of-way earlier than 5:00 p.m. on the day prior to the day designated for collection at that location, excepting only such special pickups as may be specifically designated by the Town Administrator or his/her designee and containers must be removed no later than 8:00 p.m. the day of collection.

20.205 TOWN YARD WASTE SITE.

(A) **Designation of Site.** The Town of Somers public yard waste site shall be located on the Town Hall campus adjacent to the Public Works facilities and shall be of such dimensions as is deemed to be appropriate for the operations contemplated by this ordinance. Only residents of the Town of Somers and owners of real property in the Town of Somers may utilize the Town yard waste site. Only such yard waste as is generated from not-for-profit activities on lands located in the Town of Somers shall be deposited at the Town yard waste site. Persons, firms or corporations which perform labor or services for others relating to the removal of yard waste and related materials shall be subject to the terms and conditions of Section 20.19 of these Ordinances.

(B) **Limitation to Yard Waste Disposal.** Only those materials defined as yard waste under Section 20.10(AA) of these Ordinances shall be deposited at the Town yard waste site. All other materials defined under Section 20.10(A) through (Z) and Section 20.11(A), (B), (C), (E), (F), (G), (H), (I), (J), (K), (L), (M), (N), and (O) of these Ordinances shall be prohibited from disposal at the Town yard waste site.

(C) **Additional Requirements.** The Town Administrator or his designee shall promulgate such additional rules or regulations relating to the operation of the Town yard waste site including, but not limited to, the method and manner of disposal of materials, the location where such materials are to be placed and hours of operation as shall be deemed necessary for the successful operation of the Town yard waste site. Any such regulations shall be prominently displayed by placarding or signage at or adjacent to the site.

(D) **Penalties.** Any person, firm or corporation violating any of the provisions of this, Section 20.205, shall be subject to the penalties set forth in Section 20.21(B) and (C) of these Ordinances.

20.21 ENFORCEMENT.

(A) For the purpose of ascertaining compliance with the provisions of this ordinance, any authorized officer, employee or representative of the Town Administrator or his/her designee 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 Administrator or his/her designee 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 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 §20.18 may be required to forfeit Fifty (\$50.00) Dollars for a first violation, Two Hundred (\$200.00) Dollars for a second violation, and not more than Two Thousand (\$2,000.00) Dollars for a third or subsequent violation.

(2) Any person who violates §20.14(C) or (E) or §20.19 may be required to forfeit a minimum of Five Hundred (\$500.00) Dollars and not more than Five Thousand (\$5,000.00) Dollars, plus the costs and expense incurred by the Town for restitution, repair, or cleanup of any subsequent environmental contamination.

(3) Any person who violates the provision of this ordinance, except §20.18 or §20.14(C) or (E) or §20.19, may be required to forfeit not less than Ten (\$10.00) Dollars and not more than One Thousand (\$1,000.00) Dollars, for each violation.