

## CHAPTER XLII

### RECYCLING ORDINANCE

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**42.01 TITLE.** Recycling Ordinance for the Village of Elkhart Lake.

**42.02 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 Wis. stat. sec. 159.11, and Chapter NR 544, Wis. Administrative Code.

**42.03 STATUTORY AUTHORITY.** This ordinance is adopted as authorized under Wis. Stat. sec. 159.09 (3) (b).

**42.04 ABROGATION AND GREATER RESTRICTIONS.** It is not intended by this ordinance to repeal, abrogate, annul, impair or interfere with any existing rules, regulations, ordinances or permits previously adopted or issued pursuant to law. However, whenever this ordinance imposes greater restrictions, the provisions of this ordinance shall apply.

**42.05 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 the Wisconsin Statutes or by a standard in Chapter NR 544, Wis. Administrative Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the Wisconsin Statutes and 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.

**42.06 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.

**42.07 APPLICABILITY.** The requirements of this ordinance apply to all persons within the Village of Elkhart Lake.

**42.08 ADMINISTRATION.** The provisions of this ordinance shall be administered by the Board of Trustees for the Village of Elkhart Lake.

**42.09 EFFECTIVE DATE.** The provisions of this ordinance shall take effect on January 1, 1995.

**42.10 DEFINITIONS.** For the purposes of this ordinance:

(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) "HOPE" means high density polyethylene plastic containers marked by the SPI code No. 2.

- (4) "LDPE" means low density polyethylene plastic containers marked by the SPI code No. 4.
- (5) "Magazines" means magazines and other materials printed on similar paper.
- (6) "Major appliance" means residential or commercial air conditioners, clothes dryers, clothes washers, dishwashers, freezers, microwave ovens, ovens, refrigerators, stoves, residential and commercial furnaces, boilers, dehumidifiers and water heaters.
- (7) "Mixed or other plastic resin types" means plastic containers marked by the SPI code No. 7.
- (8) "Multiple-family dwelling" means a property containing 5 or more residential units, including those which are occupied seasonally.
- (9) "Newspaper" means a newspaper and other materials printed on newsprint.
- (10) "Non-residential facilities and properties" means commercial, retail, industrial, institutional and governmental facilities and properties. This term does not include multiple-family dwellings.
- (11) "Office paper" means high grade printing and writing papers from offices in non-residential facilities and properties. Printed white ledger and computer printout are examples of office paper generally accepted as high grade. This term does not include industrial process waste.
- (12) "Person" includes any individual, corporation, partnership, association, local governmental unit, as defined in Wis. Stat. sec. 66.299(1)(a), state agency or authority or federal agency.
- (13) "PETE" means polyethylene terephthalate plastic containers marked by the SPI code No. 1.
- (14) "Postconsumer waste" means solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in Wis. Stat. sec. 144.61(5), waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste, as defined in Wis. Stat. sec. 144.44(7)(a)1.
- (15) "PP" means polypropylene plastic containers marked by the SPI code No. 5.
- (16) "PS" means polystyrene plastic containers marked by the SPI code No. 6.'
- (17) "PVC" means polyvinyl chloride plastic containers marked by the SPI code No. 3.
- (18) "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; plastic containers, including those made of PETE, HDPE, PVC, LDPE, PP, PS, and mixed or other plastic resin types; steel containers; waste tires; and bi-metal containers.
- (19) "Solid waste" has the meaning specified in Wis. Stat. sec. 144.01(15).

(20) "Solid waste facility" has the meaning specified in Wis. Stat. sec. 144.43(5).

(21) "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.

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

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

**42.11 SEPARATION OF RECYCLABLE MATERIALS.** Occupants of single family and 2 to 4 unit residences, multiple-family dwellings and non-residential facilities and properties shall separate the following materials from postconsumer waste:

(1) Lead acid batteries

(2) Major appliances

(3) Waste oil

(4) Yard waste

(5) Aluminum containers

(6) Bi-metal containers

(7) Corrugated paper or other container board

(8) Foam polystyrene packaging

(9) Glass containers

(10) Magazines or other materials printed on similar paper

(11) Newspapers or other materials printed on newsprint

(12) Office paper

(13) Plastic containers made of PETE, HDPE, PVC, LDPE, PP, PS, and mixed or other plastic resin types

(14) Steel containers

(15) Waste tires

**42.12 SEPARATION REQUIREMENTS EXEMPTED.** The separation requirements of sec. 42.11 do not apply to the following

(1) Occupants of single family and 2 to 4 unit residences multiple-family dwellings and nonresidential 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 sec. 42.11 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 30% of the heat input to the facility is derived from the solid waste burned a supplemental fuel.

(3) A recyclable material specified in sec. 42.11 for which a variance or exemption has been granted by the Department of Natural Resources under Wis. Stat. secs. 159.07(7)(d) or 159.11(2m), or sec. NR 544.14, Wis. Administrative Code.

**42.13 CARE OF SEPARATED RECYCLABLE MATERIALS.** To the greatest extent practicable, the recyclable materials separated in accordance with sec. 42.11 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.

**42.14 MANAGEMENT OF LEAD ACID BATTERIES, MAJOR APPLIANCES, WASTE OIL AND YARD WASTE.** Occupants of single family and ~ to 4 unit residences, multiple-family dwellings and non-residential facilities and properties shall manage lead acid batteries, major appliances, waste oil, and yard waste as follows:

(1) Undamaged lead acid batteries shall be accepted with recyclables.

(2) Major appliances shall be at curbside and placed for pickup on the day designated for garbage collection, but must meet all state and federal requirements regarding preparation, placement and collection of these items.

(3) Waste oil shall be delivered by any person or resident to a drum provided by the Village and placed by the Village at a place to be designated by the Village Board.

(4) Yard waste shall be placed in a rolloff provided by the Village and located at a place to be determined by the Village Board.

**42.15 PREPARATION AND COLLECTION OF RECYCLABLE MATERIALS.** As required by state and federal law, and except as otherwise directed by the Public Health and Welfare Committee of the Village of Elkhart Lake, 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 sec. 42.11(5) through ( 15) :

(1) Aluminum containers shall be rinsed and clean prior to collection and placed in an acceptable container and placed at curbside.

(2) Bi-metal containers shall be rinsed and clean prior to collection, placed in an acceptable container and placed at curbside.

(3) Corrugated paper or other container board shall be flattened and bundled prior to collection and placed at curbside.

(4) Foam polystyrene packaging shall be clean and placed in an acceptable container prior to collection and placed at curbside.

(5) Glass containers shall be clean and separated by colors, with any covers removed prior to collection and placed at curbside.

(6) Magazines or other materials printed on similar paper shall be bundled prior to collection and placed at curbside.

(7) Newspapers or other materials printed on newsprint shall be bundled prior to collection and placed at curbside.

(8) Office paper of businesses only shall be separated and put in a separate and acceptable container prior to collection and placed at curbside.

(9) Plastic containers shall be prepared and collected as follows:

(a) Plastic containers made of PETE, which are also known as "No. 1," including soda bottles, shall be rinsed and cleaned and placed in acceptable containers at curbside.

(b) Plastic containers made of HDPE, which are also known as "No. 2," including milk bottles and detergent bottles, shall be rinsed and cleaned and placed in acceptable containers at curbside.

(c) Plastic containers made of PVC, also referred to as "No. 3," shall be rinsed and cleaned and placed in acceptable containers at curbside.

(d) Plastic containers made of LDPE, also referred to as "No. 4," shall be rinsed and cleaned and placed in acceptable containers at curbside.

(e) Plastic containers made of PP, also referred to as "No. 5," shall be rinsed and cleaned and placed in acceptable containers at curbside.

(f) Plastic containers made of PS, also known as "No. 6," shall be rinsed and cleaned and placed in acceptable containers at curbside.

(g) Plastic containers made of mixed or other plastic resin types, also known as "No. 7," shall be rinsed and cleaned and placed in acceptable containers at curbside.

(10) Steel containers shall be cleaned prior to collection and placed at curbside.

(11) Waste tires shall be picked up only with prior notification by the resident at a separate cost to the resident which shall not be paid by the Village.

**42.16 RESPONSIBILITIES OF OWNERS OR DESIGNATED AGENTS OF MULTIPLE-FAMILY DWELLINGS.**

(1) Owners or designated agents of multiple-family dwellings shall do all of the following for recycling the materials specified in 42.11(5) through (15):

- (a) Provide adequate, separate containers for the recyclable materials.
- (b) Notify tenants in writing at the time of renting or leasing the dwelling and at least semiannually thereafter about the established recycling program.
- (c) Provide for the collection of the materials separated from the solid waste by the tenants and the delivery of the materials to a recycling facility.
- (d) Notify tenants of reasons to reduce and recycle solid waste, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.

(2) The requirements specified in (1) do not apply to the owners or designated agents of multiple family dwellings if 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 I sec. 42.11(5) through (15) from solid waste in as pure a form as is technically feasible.

**42.17 RESPONSIBILITIES OF OWNERS OR DESIGNATED AGENTS OF NON-RESIDENTIAL FACILITIES AND PROPERTIES.**

(1) Owners or designated agents of nonresidential facilities and properties shall do all of the following for recycling the materials specified in sec. 42.11(5) through (15):

- (a) Provide adequate, separate containers for the recyclable materials.
- (b) Notify in writing, at least semi-annually, all users, tenants and occupants of the properties about the established recycling program.
- (c) Provide for the collection of the materials separated from the solid waste by the users, tenants and occupants and the delivery of the materials to a recycling facility.
- (d) Notify users, tenants and occupants of reasons to reduce and recycle, which materials are collected, how to prepare materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.

(2) The requirements specified in (1) do not apply to the owners or designated agents of non-residential facilities and properties if the postconsumer waste generated within the facility or property is treated at a processing facility licensed by the Department of Natural Resources that

recovers for recycling the materials specified *in* sec. 42.11(5) through (15) from solid waste in as pure a form as is technically feasible.

**42.18 PROHIBITIONS ON DISPOSAL OF RECYCLABLE MATERIALS.** 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 sec. 42.11(5) through (15) which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.

**42.19 SPACE PROVIDED FOR RECYCLING IN PUBLIC BUILDINGS.** A person in the Village of Elkhart Lake owning or occupying a new building or a building that has remodeled or expanded by 50% or more in floor area, shall provide a designated area for the separation, temporary storage and collection of solid waste and recyclables either within or adjacent to the building.

**42.20 HAULER LICENSING--DNR APPROVAL.** No person or corporation shall engage in the business of hauling recyclables within the Village of Elkhart Lake without being licensed by the Department of Natural Resources under NR 502.06, Wis. Administrative Code.

**42.21 PROCESSING FACILITIES.** Any contractor operating in the Village of Elkhart Lake shall not transport for processing any recyclables to a processing facility unless that facility has been approved in writing by the Village of Elkhart Lake Board and, by January 1, 1995, the facility has self-certified with the Wisconsin Department of Natural Resources under sec. NR 544.16, Wis. Administrative Code.

**42.22 LOCAL GOVERNMENT PURCHASING OF RECYCLED CONTENT, MULTIPLE USE, DURABLE MATERIALS, EQUIPMENT AND SUPPLIES.** The Village of Elkhart Lake shall, to the extent practicable, make purchasing decisions to maximize the purchasing of products made from recycled and recovered materials. Purchases shall include 25% recycled content of all paper purchased by 1993 and 40% content of all paper by 1995. The Village of Elkhart Lake shall, to the extent practicable, award contracts for equipment and supplies on the basis of recyclability and ultimate disposition of products to discourage the purchase of single-use disposable products and require purchase of multiple-use, durable products.

**42.23 ANTI-SCAVENGING OR UNLAWFUL REMOVAL OF RECYCLABLES.** It shall be unlawful for any person, unless under contract with or licensed by the municipality, to collect or remove any of the recyclable material that has been deposited or placed at the curb or in a container adjacent to a home or non-residential building for the purposes of collection for recycling.

**42.24 NO DUMPING.** (1) It shall be unlawful for any person to dispose of or dump garbage in any street, alley or other public place within the Village of Elkhart Lake or in any receptacles or private property without the owner's consent unless it is placed in bags or containers in the manner and at the time specified by this ordinance.



(2) No person shall place for collection any garbage at the curb of a home or non-residential building that is not owned or occupied by such person.

**42.25 PROHIBITIONS ON BURNING.** Open burning shall be permitted of clean wood only. Paper products may be used only to ignite fires utilizing clean wood.

**42.26 NON-DISPOSABLE MATERIALS.** It shall be unlawful for any person to place for disposal any of the following wastes: hazardous and toxic wastes, chemicals, explosives, flammable liquids, paint, trees and stumps, construction debris, carcasses, medical waste (unless personal needles which shall be contained in cardboard to eliminate injury to collection personnel).

**42.27 GARBAGE FROM OUTSIDE OF MUNICIPALITY.** It shall be unlawful to bring refuse for disposal (and recyclables) from outside the corporate limits of the Village of Elkhart Lake into the Village of Elkhart Lake unless specifically authorized by the Village Board of the Village of Elkhart Lake by agreement or by written permission.

**42.28 HAULER RESTRICTIONS.** Haulers employed by the Village of Elkhart Lake may not dispose in a landfill or burn in a solid waste facility any recyclable materials generated in the Village of Elkhart Lake that have been separated for recycling. Haulers shall not compact glass with paper during collection and transport of recyclables to a processing facility or market and shall maintain materials in marketable condition.

**42.29 RIGHT TO REJECT MATERIALS.** The hauler employed by the Village of Elkhart Lake or the drop-off site attendant has the right to reject or leave at the curb any recyclable material that is not prepared according to the specifications in this ordinance or in the education material provided by the hauler to persons within the Village of Elkhart Lake. Materials may also be left if not separated from solid waste, placed in the proper container, or are not designated recyclable materials for collection. The hauler employed by the Village of Elkhart Lake also has the right to refuse to pick up any solid waste if it contains recyclable containers and material. In such cases the hauler or site attendant shall notify the generator of the materials about the reasons for rejecting the items in writing. The hauler shall also keep a list of such occurrences and provide such list to the Village of Elkhart Lake Board on a quarterly basis.

**42.30 HAULER LICENSING--NECESSARY MUNICIPAL AND STATE PERMITS.** Haulers who collect solid waste or recyclables in the Village of Elkhart Lake for storage, treatment, processing, marketing or disposal shall obtain and maintain all necessary municipal and state permits, licenses and approvals prior to collecting any materials in the Village of Elkhart Lake.

**42.31 REPORTING REQUIREMENTS.** All recycling haulers and processors operating in the Village of Elkhart Lake are required to maintain records and report in writing to the Village of Elkhart Lake Clerk at least once every six months. Reports shall include the following: the amount of solid waste and recyclables collected and transported from the Village of Elkhart Lake, the amount of solid waste and recyclables processed and marketed by item from the Village of Elkhart Lake, and the final disposal location of solid waste and recyclable material.

Failure to report shall be cause for the municipality to revoke any license or sever any contract with the hauler or processor.

**42.32 OWNERSHIP OF RECYCLABLES AND REFUSE.** Recyclable materials and refuse, upon placement at the curb, shall become the property of the hauler employed by or contracting with the Village of Elkhart Lake. Recyclable materials, upon collection by any permitted collector, shall become the property of the contractor or hauler.

**42.33 EXEMPTIONS.** The Village Board for the Village of Elkhart Lake reserves the right to designate additional solid waste materials as recyclable or currently collected materials as no longer recyclable in accordance with state law, and to either add or delete them from any collection services provided by the municipality or its contractors. The municipality shall provide written notice to its service recipients of this declaration.

**42.34 COLLECTION SCHEDULE.** The Village of Elkhart Lake shall establish the time of collection of solid waste and recyclables, and the Clerk shall provide written notice of the collection schedule at least once in the spring and fall of each year and at any time when the collection schedule is changed.

**42.35 SPECIFIED CONTAINERS.** (1) Solid waste shall be placed for collection in bags approved by the hauler contracting with the Village of Elkhart Lake, but not to exceed 50 pounds per container and contained in a manner to avoid litter. Garbage, as that term is defined under sec. 42.39(1), is solid waste. Construction waste shall be classified as solid waste, but shall be limited in quantity to two 30-gallon containers of not more than 50 pounds each per pickup. Any construction waste exceeding this amount may be rejected by the hauler employed by or contracted with the Village.

(2) Owners of residential and commercial rental property shall provide a dumpster for all tenants leaving their unit if the amount of the tenant's refuse is more than two cubic yards (one cubic yard is commonly defined as the size of a couch). Owners of residential and commercial rental property will be responsible for any refuse left by the tenants at curbside or on the parkway and will be subject to the forfeitures of Section 42.38 ENFORCEMENT, if applicable.

(3) Recyclables shall be contained in appropriate containers as approved by the hauler employed by or contracting with the Village of Elkhart Lake.

(4) All solid waste and recyclables shall be placed as herein required at the specified collection point no sooner than 24 hours prior to the regularly-scheduled collection time or be allowed to remain at the curb no longer than 12 hours thereafter.

**42.36 PLACEMENT OF RECYCLABLES AND SOLID WASTE FOR COLLECTION.** Except as otherwise specifically directed or authorized by the Village Board for the Village of Elkhart Lake, solid waste and recycling containers shall be placed at curbside adjacent to the premises owned or occupied by the person, of the street designated in the published collection schedule for collection. Materials shall be placed out for collection according to the scheduled day as established and published by the Village of Elkhart Lake.

**42.37 SPECIAL MATERIALS.** Materials such as couches and bulky items shall be collected during a special collection at a frequency and time as directed by the Village Board for the Village of Elkhart Lake.

**42.38 ENFORCEMENT.** (1) Any authorized officer, employee or representative of the Village of Elkhart Lake may inspect recyclable material separated for recycling, postconsumer waste intended for disposal, collection sites and facilities, collection vehicles, collection areas of multiple-family dwellings and nonresidential facilities and properties, solid waste disposal facilities and solid waste treatment facilities, and any records relating to recycling activities, for the purpose of ascertaining compliance with the provisions of this ordinance. No person may refuse access to any authorized officer, employee or authorized representative of the Village of Elkhart Lake who requests access for purposes of inspection, and who presents appropriate credentials. No person may obstruct, hamper or interfere with such inspection.

(2) Any person who violates a provision of this ordinance may be issued a citation by the Chief of Police of the Village of Elkhart Lake. 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.

(3) Penalties for violating this ordinance may be assessed as follows:

- (a) Any person who violates sec. 42.18 may be required to forfeit \$50 for a first violation, \$200 for a second violation, and not more than \$2,000 for a third or subsequent violation, in addition to the costs and disbursements of the action.
- (b) Any person who violates a provision of this ordinance, other than secs. 42.18 or 42.39, may be required to forfeit not less than \$10 nor more than \$1,000 for each violation, in addition to the costs and disbursements of the action.
- (c) Any person who violates sec. 42.39 may be required to forfeit \$50 for a first violation, \$200 for a second violation, and not more than \$2,000 for a third or subsequent violation, in addition to the costs and disbursements of the action.

**42.39 GARBAGE COLLECTION.** (1) Definitions. All items not considered recyclable materials under sec. 42.10(18) shall be considered garbage and includes all organic kitchen waste, solid waste, and other materials or items not specifically defined as recyclable materials. Solid waste is garbage.

(2) Separation and Preparation. All garbage shall be kept separate from recyclable materials and placed in the collection bins as designated by the hauler employed by or contracted with the Village of Elkhart Lake and placed at curbside for collection not more than 24 hours before the time of collection as specified by the Village Board. The collection bins need to be removed from the curb no later than 7 am on the day after collection. The Village Board may direct or authorize collection in containers in a different manner than prescribed herein as conditions shall

warrant, and any garbage not placed for collection in accordance with the provisions of this section may be refused by the hauler.

(3) Materials Not to be Placed for Pickup With Garbage. Large amounts of stone, concrete, rubber, earth, sod, tree stumps or trunks, grass, leaves or brush shall not be placed for pickup with garbage and shall be disposed of as otherwise directed by the Village Board of the Village of Elkhart Lake.

(4) Collection for Industrial Districts. In a further attempt to reduce costs, an industrial district is hereby established for the collection of garbage and is defined pursuant to Chapter 16 of the Municipal Code of the Village of Elkhart Lake and the zoning map referred to therein. For purposes of this ordinance, any public school, as that term is defined under Wis. Stat. sec. 115.01(1) as amended from time to time, shall be considered in the industrial district. The Village shall not be responsible for the collection of garbage or recyclable materials in any industrial district. Any owner of property in any industrial district shall be required to contract with their own hauler or collector and shall be responsible for the costs of the same for collection of garbage and recyclable materials.

(5) Pickup for Multi-Family Residential and Commercial Areas. Any residential building, containing four or less units, or commercial building will be allowed one recycling and one refuse container that will be emptied by the hauler employed by or contracted with the Village of Elkhart Lake once per week, at a day and time to be set by the Village Board. The owner/tenant of the building shall be responsible for any additional refuse that is generated.