

ORDINANCE # 03-14

**AN ORDINANCE UPDATING CODE OF ORDINANCES
RELATING TO SOLID WASTE AND RECYCLING**

The Common Council of the City of Berlin do ordain as follows:

Chapter 54, Solid Waste, of the Code of Ordinances for the City of Berlin is hereby repealed and replaced with the following:

Chapter 54 – SOLID WASTE AND RECYCLING

ARTICLE I. – IN GENERAL

Sec. 54-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bi-metal container has the meaning specified in Wis. Admin. Code NR § 544.03(1).

Collecting and transporting service means a municipal or privately operated agency, business, or service for collecting or transporting solid waste and/or recycling materials for disposal or recycling.

Container board has the meaning specified in Wis. Admin. Code NR § 544.03(3).

Department means the city department of public works.

Foam polystyrene packaging has the meaning specified in s. 287.01 (2), Stats.

Glass Container means a glass bottle, jar or other packaging container 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 TV tubes.

Health officer means the legally designated county health authority or his or her designee.

HDPE has the meaning specified in Wis. Admin. Code NR § 544.03(9).

LDPE has the meaning specified in Wis. Admin. Code NR § 544.03(10).

Magazines has the meaning specified in Wis. Admin. Code NR § 544.03(11).

Major appliance has the meaning specified in s. 287.01(3), Stats.

Multiple-family dwelling has the meaning specified in Wis. Admin. Code NR § 544.03(13).

Newspaper has the meaning specified in Wis. Admin. Code NR § 544.03(19).

Nonresidential facilities and properties has the meaning specified in Wis. Admin. Code NR § 544.03(21).

Office paper has the meaning specified in Wis. Admin. Code NR § 544.03(22).

Other resins or multiple resins means plastic resins labeled by the SPI Code No. 7.

Person has the meaning specified in s. 287.01 (5m), Stats.

PETE has the meaning specified in Wis. Admin. Code NR § 544.03(27).

Plastic container has the meaning specified in Wis. Admin. Code NR § 544.03(27)(m).

Post-consumer waste has the meaning specified in s. 287.01 (7), Stats.

PP has the meaning specified in Wis. Admin. Code NR § 544.03(28).

PS has the meaning specified in Wis. Admin. Code NR § 544.03(28)(m).

PVC has the meaning specified in Wis. Admin. Code NR § 544.03(29).

Recyclable materials means materials listed in s. 287.07 (1m) to (4), Stats.

Residential property has the meaning of single family and 2 – 4 unit residences.

Solid Waste and Recycling Coordinator means the city administrator or his or her designee.

Solid waste has the meaning given in s. 289.01 (33).

Solid waste disposal has the meaning given in s. 289.01 (34).

Solid waste facility has the meaning given in s. 289.01 (35).

Solid waste treatment has the meaning given in s. 289.01 (39).

Waste tire has the meaning specified in s. 289.55(c), Stats.

Yard waste has the meaning specified in s. 287.01 (17), Stats.

Sec. 54-2. Penalty.

- (a) *General penalties.* Except as otherwise provided, any person who shall violate any provision of this ordinance or any order, rule or regulation made under this ordinance shall be subject to a penalty as provided in section 1-16, except that any forfeitures imposed shall be consistent with the forfeitures under ss. 287.95 and 287.97, Stats. where applicable. Specific penalties for violating section 54-33 may be assessed as follows:
- (1) Any person who violates section 54-33 may be required to forfeit \$50 for a first violation, \$200 for a second violation, and not more than \$2000 for a third or subsequent violation.
 - (2) Any person who violates a provision of this ordinance, except section 54-33, may be required to forfeit not less than \$10 or more than \$1000 for each violation.
- (b) *Special penalties.* If the owner, occupant, or lessee of any premises neglects or refuses to clean up and remove from such premises all solid waste when so ordered by the solid waste and recycling coordinator pursuant to this chapter, such owner, occupant or lessee shall be in violation of this section, and may be subject to the issuance of a citation. If such accumulation occurs on any street, alley or public thoroughfare, such solid waste may be collected under the direction of the solid waste and recycling coordinator, and the entire cost thereof shall be assessed against the abutting property. If said cost is not paid within 30 days, it will be added to the taxes as a special charge on the property according to Wis. Stats. § 66.0627.

(c) *Failure to comply.*

- (1) The solid waste and recycling coordinator may refuse to furnish city collection service of post-consumer waste or recyclable materials to any person not complying and refusing to comply with this article and the rules and regulations made by the solid waste and recycling coordinator for the collection and disposal of solid waste.
- (2) When services of the city's collection of solid waste have been withdrawn by the solid waste and recycling coordinator from any person for failure to comply with such rules and regulations, resulting in an accumulation of solid waste on said person's premises which is offensive or a public nuisance, that person may be prosecuted under any ordinances of the city regulating the same.

Sec. 54-3. Enforcement authority.

For the purpose of ascertaining compliance with the provisions of this chapter, the solid waste and recycling coordinator may, upon presentation of credentials, inspect recyclable materials separated for recycling, post-consumer waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection areas of multiple-family dwellings and nonresidential facilities and properties and any records relating to recycling activities, which shall be kept confidential when necessary to protect proprietary information. If entry is refused, a special inspection warrant under Wis. Stats. § 66.0119, may be obtained. No person may obstruct, hamper or interfere with any such inspection.

Secs. 54-4 – 54-14. Reserved.

ARTICLE II – STORAGE, DISPOSAL AND COLLECTION

Sec. 54-15. Post-consumer waste collection.

Post-consumer waste shall be collected by the city, or a city contracted collecting and transporting service, once per week from all residential properties which are not multiple-family dwellings, provided that such waste is properly handled, prepared, contained, stored, and located in conformance with this article and rules and regulations established and publicized by the solid waste and recycling coordinator. Such post-consumer waste collection shall be provided at no charge for one rollout container as provided by the city.

Sec. 54-16. Recyclable materials collection.

Recyclable materials specified under s. 287.07 (3) to (4), Stats. shall be collected by the city, or a city contracted collecting and transporting service, once per week for all residential properties which are not multiple-family dwellings, provided that such materials are properly separated, handled, prepared, contained, stored, and located in conformance with this article and rules and regulations established and publicized by the solid waste and recycling coordinator. Curbside recycling is mandatory, and residents will be required to comply when they are served by a recycling route. Such collection of recyclable materials shall be provided at no charge for one rollout container as provided by the city. Recyclable materials containers shall be placed out for collection separated three feet from post-consumer waste containers on the regular post-consumer waste collection day.

Sec. 54-17. Certain types of solid waste not subject to collection.

No solid waste other than post-consumer waste, and recyclable materials specified under s. 287.07 (3) to (4), Stats, shall be subject to collection by the city.

Sec. 54-18. Containers.

- (a) The city has provided all existing residential properties which are not multiple-family dwellings with one rollout post-consumer waste collection container per dwelling unit, and one rollout recyclable materials collection container per dwelling unit, at no cost. The city will provide all newly developed residential properties which are not multiple-family dwellings with one rollout post-consumer waste collection container per dwelling unit, and one rollout recyclable materials collection container per dwelling unit, at no cost. All containers shall remain with the applicable household unit, and any replacement container must be purchased from the city for a charge equal to the city's cost (unless otherwise replaced pursuant to a warranty or other replacement program provided by the city's contracted collecting and transporting service).
- (b) All collection containers shall be maintained in such a manner as to prevent the creation of a nuisance to public health and safety.
- (c) Any container deemed defective or otherwise inadequate by the solid waste and recycling coordinator shall be replaced at the owner's expense within one week's time following notification by the city (unless otherwise replaced pursuant to a warranty or other replacement program provided by the city's contracted collecting and transporting service). Any defective container not replaced subsequent to such notification shall be in violation of this section, and subject to the issuance of a citation.

Sec. 54-19. General storage and collection preparation requirements.

- (a) Bulky material, or other materials too large to be deposited in the post-consumer waste and recyclable materials collection containers provided by the city, will not be collected as part of the city's weekly solid waste and recyclable materials collection program described in sections 54-15 and 54-16. Large quantities of construction and/or demolition waste shall be disposed of as provided for in section 54-21(d). The city may designate certain time periods for city-wide collection of such materials, and in such circumstances the solid waste and recycling coordinator shall have authority to establish rules and regulations for such special collection programs. Any violation of such rules and regulations established by the solid waste and recycling coordinator shall be in violation of this section, and subject to the issuance of a citation.
- (b) *Hot cinders, ashes, or any smoldering embers.* Hot cinders, ashes, or any smoldering embers shall not be placed in any post-consumer waste or recyclable materials collection container for purposes of collection by the city.
- (c) *Sanitary storage of solid waste by owner or occupant.* The owner and/or occupant of any premises shall be responsible for proper and sanitary storage of all post-consumer waste and recyclable materials accumulated at the premises until collected by the collecting and transporting service. All post-consumer waste and recyclable materials must be stored out of view from the roadway when not set out for collection during the times designated in subsection 54-19(e).
- (d) *Placement for collection.* Post-consumer waste and recyclable materials subject to collection by the city shall be placed in an approved container described in section 54-18 and such containers shall be placed for collection at the curblines, facing the street, three feet away from each other and any structure prohibiting automated pickup. Containers shall not be placed in the roadway. Collection shall not be made in any alleys adjoining residential property, unless expressly authorized by the city. If alleyway collection is authorized, such containers shall be placed in such a manner as expressly directed by the solid waste and recycling coordinator. No collection shall be made on private property unless approved by the solid waste and recycling coordinator after confirmation that a hardship exists due to physical disability.
- (e) *Collection times.* Approved post-consumer waste and recyclable materials collection containers shall be placed at the curblines by 7:00 a.m. on the scheduled day of collection, but shall not be placed at the curblines more than 12 hours before collection day and shall be removed not more than 12 hours after collection day. Failure to comply shall be a violation of this section, and may result in the issuance of a citation.
- (f) *City property.* All post-consumer waste and recyclable materials placed out for collection becomes city property upon being collected.

- (g) *Dead animals and animal offal.* Dead animals, animal offal, the droppings from pet animals, manure, and night soil shall not be collected by the city collection service. It shall be the responsibility of the owner of such animals to dispose of such dead animals or waste in a sanitary manner.
- (h) *Infectious materials.* The removal of wearing apparel, bedding, or other refuse from homes or other places where highly infectious or contagious diseases have prevailed shall be performed under the supervision of the health officer. Such refuse shall not be placed in post-consumer waste or recyclable materials collection containers for regular collection by the city collection service.
- (i) *Explosive materials.* No person shall place or deposit any explosive material such as dynamite, dynamite caps, shotgun shells, rifle cartridges, gunpowder, gasoline, or similar material in a container for collection or disposal at any dumping grounds, private or municipal.
- (j) *Doubt as to proper disposal.* When any person is in doubt as to the proper preparation, handling, and disposal of any type of solid waste, such person shall contact the solid waste and recycling coordinator for information concerning such handling and disposal.
- (k) *Prior approval needed for any variance.* There shall be no variance from this section without the prior approval of the solid waste and recycling coordinator.

Sec. 54-20. Transportation.

- (a) *Materials not to create nuisance.* No person shall transport any solid waste or other materials in any vehicle unless the vehicle is operated and constructed so that the contents shall not blow, scatter, leak, or spill upon streets or alleys or otherwise create a nuisance.
- (b) *Collection vehicles.* All vehicles or conveyers, whether publicly or privately owned, used for the collection or transportation of solid waste shall not be kept in any street, alley, or public place, or upon any private premises within the city longer than is reasonably necessary to collect the solid waste except by permission of the solid waste and recycling coordinator.
- (c) *Permission needed to transport waste materials.* No person, except employees of the department, or the city's contracted collecting and transporting service, in the regular performance of duty, shall collect or transport solid waste on any street or alley without the permission and supervision of the solid waste and recycling coordinator.

Sec. 54-21. General solid waste disposal requirements.

- (a) *Approved disposal.* Following collection, all solid waste shall be disposed of under the direction of the solid waste and recycling coordinator in a manner approved by solid waste and recycling coordinator with the concurrence of the health officer in conformance with the state department of natural resources, solid waste disposal standards under terms approved by the common council.
- (b) *Burning of solid waste or recyclables.* No person shall burn any solid waste or recyclables at any time within the city.
- (c) *Prohibitions.* No person in the city shall deposit, throw, place, or leave any solid waste upon any street, court, lane, alley, business, square, public enclosure, vacant lot, house yard, body of water, or any place except in an approved container described in this chapter. No person shall upset or turn over the contents of any waste collection container in any street, alley and other public place. No person shall remove any waste from any waste collection container on private premises without the consent of the occupant, owner or lessee of the premises, and no person shall remove any waste from any waste collection container which has been set out on public right-of-way for collection. No person shall remove any waste from public trash receptacles placed on public property.
- (d) *Disposal of construction and/or demolition waste.* All construction and/or demolition waste shall be disposed of by the owner, builder, or contractor at a solid waste facility. Excavated material consisting of sand, clay, or other earth and broken concrete, brick or rubble free of debris may be used for filling private property, subject to all other permits as may be required by this code of ordinances.
- (e) *Disposal of industrial and/or manufacturing waste.* Industrial and/or manufacturing waste shall be disposed of by the owner or occupant at a solid waste facility.

ARTICLE III – RECYCLING

Sec. 54-22. Purpose.

The purpose of this article is to promote recycling, composting and resource recovery through the administration of an effective recycling program, as provided in s. 287.11, Stats., and Wis. Admin. Code ch. NR 544.

Sec. 54-23. Statutory authority.

This article is adopted as authorized under s. 287.09(3)(b)Stats.

Sec. 54-24. Abrogation and greater restrictions.

It is not intended by this article 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 section imposes greater restrictions, the provisions of this article shall apply.

Sec. 54-25. Interpretation.

In their interpretation and application, the provisions of this article shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the state statutes. Where any terms or requirements of this article may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision is required by the state statutes or by a standard in Wis. Admin. Code ch. NR 544 and where a provision is unclear, the provision shall be interpreted in light of the state statutes and Wis. Admin. Code ch. NR 544 standards in effect on the date of the adoption of the ordinance from which this article is derived or in effect on the date of the most recent text amendment to this Code.

Sec. 54-26. Applicability.

The requirements of this article shall apply to all persons within the city of Berlin.

Sec. 54-27. Administration.

The provisions of this article shall be administered by the solid waste and recycling coordinator in the City of Berlin.

Sec –54-28. Separation of Recyclable materials. Occupants of single family and 2 to 4 unit residences, multiple family dwellings and non-residential facilities and properties shall separate the following materials from postconsumer waste:

1. **lead acid batteries,**
2. **major appliances,**
3. **waste oil,**
4. **yard waste,**
5. **aluminum containers,**
6. **bi-metal containers,**
7. **corrugated paper or other container board,**
8. **foam polystyrene packaging,**
9. **glass containers,**
10. **magazines,**
11. **newspaper**

12. **rigid plastic containers (made of PETE,HDPE, PVC, LDPE, PP, PS and other resins or multiple resins),**
13. **steel containers and**
14. **waste tires**

Sec. 54-29. Separation Requirements Exempted.

The separation requirements of 54-28 do not apply to the following:

- (1) Occupants of single family and 2 to 4 unit residences, multiple-family dwellings and non-residential facilities and properties that send their postconsumer waste to a processing facility licensed by the Wisconsin Department of Natural Resources that recovers the materials specified in sec 54-28 (5) through (15) 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 as supplemental fuel in accordance with s. 287.07 (7) (bg), Stats.
- (3) A recyclable material specified in Sec 54-28 (5) through (15) for which a variance has been granted by the Department of Natural Resources under s 287.11(2m), Wis Stats., or s. NR 544.14, Wis Administrative Code.

Sec. 54-30. Responsibilities of owners or designated agents of multiple-family dwellings.

Owners or designated agents of multiple-family dwellings in the city shall do all of the following unless postconsumer waste generated in those properties is treated at a processing facility that recovers for recycling the materials specified in s. 287.07 (3) and (4), Stats., from that solid waste in as pure a form as is technically feasible:

- (1) Provide adequate, separate containers for the recycling program established in compliance with the chapter.
- (2) Notify tenants in writing at the time of renting or leasing the dwelling and at least semi-annually thereafter of how to appropriately recycle the materials specified under s. 287.07 (1m) to (4), Stats., at this location. This notification shall include reasons to reduce and recycle waste, which materials are collected, how to prepare recyclable materials in order to meet the processing requirements, and collection methods or sites. The notification shall indicate locations and hours of operation of drop-off collection sites for recyclable materials not collected on-site, including a contact person or company, address and phone number.
- (3) Provide for the collection of recyclable materials separated from the solid waste by the tenants and the delivery of the recyclable materials to a recycling facility.

Sec. 54-31. Responsibilities of owners or designated agents of nonresidential facilities and properties.

Owners or designated agents of non-residential facilities and properties in the city shall do all of the following unless postconsumer waste generated in those facilities and properties is treated at a processing facility that recovers the materials specified in s. 287.07 (3) and (4), Stats., from solid waste in as pure a form as is technically feasible:

- (1) Provide adequate, separate containers for the program established under this section.
- (2) Notify in writing, at least semi-annually, all users, tenants and occupants of the properties of how to appropriately recycle the materials specified under s. 287.07 (1m) to (4), Stats., at this location. This notification shall include reasons to reduce and recycle waste, which materials are collected, how to prepare recyclable materials in order to meet the processing requirements, and collection methods or sites. The notification shall indicate locations and hours of operation of drop-off collection sites for recyclable materials not collected on-site, including a contact person or company, address and phone number.

- (3) Provide for the collection of recyclable materials separated from the solid waste by the users, tenants and occupants and the delivery of the recyclable materials to a recycling facility.

Sec. 54-32. Preparation and Collection of recyclable materials by the city.

Except as otherwise directed by the solid waste and recycling coordinator, occupants of all residential properties that are not multiple-family dwellings shall do the following for the preparation and collection by the city of the separated recyclable materials specified under 54-28 (5) through (15):

- (1) Aluminum containers shall be placed in the recyclable materials collection container for recycling;
- (2) Bi-metal containers shall be placed in the recyclable materials collection container for recycling;
- (3) Corrugated paper or other container board shall be cut down to a size allowing for placement in the recyclable materials collection container for recycling;
- (4) Foam polystyrene packaging is currently not recycled by the city and shall be placed by the occupant in the post-consumer waste collection container;
- (5) Glass containers shall be rinsed and cleaned and placed in the recycling container for recycling;
- (6) Magazines shall be bundled, bagged or boxed and placed in the recyclable materials collection container for recycling;
- (7) Newspaper shall be bundled and placed in the recyclable materials collection container for recycling;
- (8) Office paper shall be bundled and placed in the recyclable materials collection container for recycling;
- (9) Loosely shredded paper must be placed in brown paper bags;
- (10) Rigid plastic containers shall be prepared and collected as follows:
 - a. Plastic containers made of PETE, including soda bottles, shall be rinsed, flattened and placed in the recyclable materials collection container for recycling;
 - b. Plastic containers made of HDPE, including milk jugs, shall be rinsed and flattened and placed in the recyclable materials collection container for recycling;
 - c. Plastic containers made of PVC shall be placed in the post-consumer waste collection container;
 - d. Plastic containers made of LDPE shall be placed in the post-consumer waste collection container;
 - e. Plastic containers made of PP shall be placed in the post-consumer waste collection container; and
 - f. Plastic containers made of PS shall be placed in the post-consumer waste collection container;
- (11) Steel containers shall be rinsed and placed in the recyclable materials collection container for recycling; and
- (12) Recyclable materials placed in a recyclable materials collection container for recycling may be comingled.

Sec. 54-33. Prohibitions on disposal of recyclable materials separated for recycling.

No person may dispose of in a solid waste disposal facility or burning in a solid waste treatment facility the materials specified in section 54-28 (5) through (15), which have been separated for recycling, unless subject to a statutory exception.

Sec. 54-34. Care of separated recyclable materials.

To the greatest extent practicable, the recyclable materials separated in accordance with section 54-CC shall be clean and kept free of contaminants such as food or product residue, oil or grease or other nonrecyclable 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.

Sec. 54-35. Management of lead acid batteries, major appliances, waste oil, yard waste and waste tires.

Occupants of single-family and two- to four-unit residences, multiple-family dwellings and nonresidential facilities and properties shall manage recyclable materials specified in s. 287.07 (3) to (4), Stats. as follows:

- (1) Lead acid batteries and mercuric oxide batteries shall be separated from post-consumer waste and disposed of or recycled by the occupant in accordance with s. 287.18, Stats. or s. 287.185, as applicable. Such batteries may be collected by the city annually as part of an established program, or as directed by the solid waste and recycling coordinator.
- (2) Major appliances shall be disposed of or recycled by the occupant. Major appliances may be collected by the city annually as part of an established program, or as directed by the solid waste and recycling coordinator. Major appliances with cooling elements will only be picked up for a fee established by the solid waste and recycling coordinator.
- (3) Waste oil shall be disposed of or recycled by the occupant in accordance with s. 287.15, Stats.
- (4) Yard waste shall be handled pursuant to sections 54-36 and 54-37.
- (5) Waste tires shall be disposed of or recycled by the occupant in compliance with Wisconsin Statutes.

Sec. 54-36. Yard waste collection.

The department will undertake a program to collect certain types of yard waste in October and November. Yard waste shall not be picked up by the department during any other months. The solid waste and recycling coordinator shall have authority to establish rules and regulations for such yard waste collection programs. Any violation of such rules and regulations established by the solid waste and recycling coordinator shall be in violation of this section, and subject to the issuance of a citation.

Sec. 54-37. Yard waste dropoff.

Yard waste may be dropped off by residents at no charge at the city yard waste dropoff site.

- (1) *Regulations.*
 - a. No bags or reusable containers may be disposed of at the dropoff site.
 - b. Persons transporting yard waste shall cover or otherwise contain the waste in such a manner as to prevent scattering or dumping of yard waste in transport.
 - c. The hours of operation for dropoff site shall be established, published and/or posted by the department.
 - d. Residents may pick up finished compost for free as available. If excess finished compost is available, the solid waste and recycling coordinator may permit businesses to pick up compost.
- (2) *Prohibited.* Landscaper/lawn care businesses are prohibited from utilizing the dropoff site to dispose of yard waste generated by such operations as well as prohibited from removing any compost, yard waste, sand, dirt, woodchips or other natural material from the dropoff site.

This ordinance shall take effect the day after publication.

The numeric section numbers and headings shall be subject to modification in the discretion of the codifier, and the approval of the City Attorney, during codification into the City's current Code of Ordinances.

Passed, approved and adopted this 15th day of July, 2014.

ROLL CALL VOTE:

 6 AYES
 0 NAYS
 0 ABSENT

APPROVED AS TO FORM:

Matthew G. Chier, City Attorney

CITY OF BERLIN

BY: _____
Richard D. Schramer, Mayor

ATTEST: _____
Jodie Olson, City Clerk