

ORDINANCE #01-26

**AN ORDINANCE TO REPEAL AND RECREATE PORTIONS OF CHAPTER 54
ENTITLED "SOLID WASTE AND RECYCLING" OF THE CITY OF BERLIN
MUNICIPAL CODE REGARDING THE COLLECTION OF SOLID WASTE
AND RECYCLING MATERIALS AND RELATED SERVICES**

WHEREAS, the City of Berlin desires to encourage the health of its residents and sanitation and good order of the City of Berlin through the provisions of the City of Berlin Municipal Code; and

WHEREAS, Chapter 54 of the City of Berlin Municipal Code addresses the Solid Waste and Recycling in the City and creates certain specifications, requirements and procedures for the collection of garbage and other refuse and the scope of such services within the City of Berlin; and

WHEREAS, currently the costs associated with the collection of recycling materials are included as part of the City of Berlin's general levy; and

WHEREAS, City staff has considered the viability of imposing the costs of collecting recyclable materials via special charge on property owners pursuant to Wis. Stats. §66.0627 rather than paying such costs through the City's general levy and thus making available more funds for the general levy; and

WHEREAS, City staff have also identified provisions of Chapter 54 that should be updated to bring Chapter 54 in line with provisions and language recommended by the Wisconsin Department of Natural Resources related to solid waste and recycling, including, but not limited to, provisions related to the separation of recyclable materials and recycling responsibilities of nonresidential facilities; and

WHEREAS, the Common Council of the City of Berlin finds that it is in the best interest of the health, general welfare, and safety of the City of Berlin to impose special charges for the costs associated with the collection or recyclable materials in the City and to amend Chapter 54 to update the provisions as noted herein.

NOW, THEREFORE, The CITY OF BERLIN Common Council, Green Lake and Waushara Counties, Wisconsin does hereby ordain as follows:

SECTION 1. Chapter 54 of the City of Berlin Municipal Code entitled "Solid Waste and Recycling," Article I entitled "In General," Section 54-1 entitled "Definitions," specifically the definition of "Multiple-family dwelling" is hereby repealed and recreated to read as follows:

Sec. 54-1. – Definitions.

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

SECTION 2. Chapter 54 of the City of Berlin Municipal Code entitled “Solid Waste and Recycling,” Article I entitled “In General,” Section 54-2 entitled “Penalty,” Subsection 54-2(a) entitled “General Penalties,” Subsection 54-2(a)(1) is hereby repealed and recreated to read as follows:

Sec. 54-2. – Penalty.

- (1) Any person who violates section 54-33 may be required to forfeit \$50.00 for a first violation, \$200.00 for a second violation, and not more than \$2,000.00 for a third or subsequent violation.

SECTION 3. Chapter 54 of the City of Berlin Municipal Code entitled “Solid Waste and Recycling,” Article I entitled “In General,” Section 54-2 entitled “Penalty,” Subsection 54-3 entitled “Enforcement Authority,” is hereby repealed and recreated to read as follows:

Sec. 54-3. – Enforcement Authority.

- (1) For the purpose of ascertaining compliance with the provisions of this chapter, any authorized officer, employee or representative of the city may inspect recyclable materials separated for recycling, post-consumer waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection areas of multiple-family dwellings and nonresidential 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 city who requests access for purposes of inspection, and who presents appropriate credentials. No person may obstruct, hamper or interfere with any such inspection.
- (2) Any person who violates a provision of this ordinance may be issued a citation by the City of Berlin Police Department 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.
- (3) Penalties for violating this ordinance may be assessed as follows
 - a. Any person who violates Sec. 54-42 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.

- b. Any person who violates a provision of this Chapter, except Sec. 54-12, may be required to forfeit not less than \$10 or more than \$1000 for each violation

SECTION 4. Chapter 54 of the City of Berlin Municipal Code entitled "Solid Waste and Recycling," Article II entitled "Storage, Disposal and Collection," Section 54-16 entitled "Recyclable Materials Collection," is hereby repealed and recreated to read as follows:

Sec. 54-16 – Recyclable Materials Collection.

Recyclable materials specified under Wis. Stats. § 287.07(3) to (4), 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 by special charge on the property tax bill pursuant to Wis. Stats. §66.0627(2), such special charge will be collected annually by the city to fund recycling program operations and collection of one rollout container per residential property unit 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.

SECTION 5. Chapter 54 of the City of Berlin Municipal Code entitled "Solid Waste and Recycling," Article II entitled "Storage, Disposal and Collection," Section 54-18 entitled "Containers," Subsection 54-18(a) which is untitled, is hereby repealed and recreated to read as follows:

Sec. 54-18 – Containers.

The city has provided all existing residential properties which are not multiple-family dwellings with one rollout post-consumer waste collection container per residential property unit at no cost, and one rollout recyclable materials collection container per residential property unit charged to the residential property unit owner as a special charge on the property tax bill to be collected annually by the city to fund recycling program operations and collection. The city will provide all newly developed residential properties which are not multiple-family dwellings with one rollout post-consumer waste collection container per residential property unit at no cost, and one rollout recyclable materials collection container per residential property unit charged to the residential property unit owner as a special charge on the property tax bill to be collected annually by the city to fund recycling

program operations and collection. 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).

SECTION 6. Chapter 54 of the City of Berlin Municipal Code entitled "Solid Waste and Recycling," Article III entitled "Recycling," Section 54-37 entitled "Separation of Recyclable Materials," Subsection 54-15 is hereby created as follows:

Sec. 54-37 – Separation of Recyclable Materials.

(15) Office Paper.

SECTION 7. Chapter 54 of the City of Berlin Municipal Code entitled "Solid Waste and Recycling," Article III entitled "Recycling," Section 54-38 entitled "Separation Requirements Exempted," is hereby repealed and recreated as follows:

Sec. 54-38 Separation Requirements Exempted.

- (1) Occupants of single-family and 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 subsections 54-37(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 percent of the heat input to the facility is derived from the solid waste burned as supplemental fuel in accordance with Wis. Stats. § 287.07(7)(bg).
- (3) A recyclable material specified in subsections 54-37(5) through (15) for which a variance has been granted by the department of natural resources under Wis. Stats. § 287.11(2m), or s. NR 544.14, Wis. Administrative Code.

SECTION 8. Chapter 54 of the City of Berlin Municipal Code entitled "Solid Waste and Recycling," Article III entitled "Recycling," Section 54-39 entitled "Responsibilities of Owners or Designated Agents of Multiple-Family Dwellings," is hereby repealed and recreated to read as follows:

Sec. 54-39 – 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 Wis. Stats. § 287.07(3) and (4), 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. The number of recyclable materials collection containers shall equal or be greater than the number of waste collection containers and at least one of the following shall be met:
 - a. The minimum total volume of recyclable materials collection container space is equal to 20 gallons per week per dwelling unit.
 - b. The ratio of waste collection containers volume to recyclable materials collection container volume is at most 2:1.
 - c. An alternative method that does not result in overflow of a recyclable materials collection container during the time period between collection of materials and delivery to a recycling facility.
- (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 Wis. Stats. § 287.07(1m) to (4), at this location. This notification shall include, which materials are collected, how to prepare recyclable materials in order to meet the processing requirements, collection methods or sites, and locations of drop-off collection sites for recyclable materials not collected on-site.
- (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.

SECTION 9. Chapter 54 of the City of Berlin Municipal Code entitled "Solid Waste and Recycling," Article III entitled "Recycling," Section 54-40 entitled "Responsibilities of Owners or Designated Agents of Nonresidential Facilities and Properties," is hereby repealed and recreated to read as follows:

Sec. 54-40 – Responsibilities of Owners or Designated Agents of Nonresidential Facilities and Properties.

- (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 Wis. Stats. § 287.07(1m) to (4), at this location. This notification shall include which materials are collected, how to prepare recyclable

materials in order to meet the processing requirements, collection methods or sites, and locations of drop-off collection sites for recyclable materials not collected on-site.

- (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.
- (4) Provide adequate, separate containers for the program established under this section. The total volume of recycling containers shall be sufficient to avoid overflow during the time period between collection of materials and delivery to a recycling facility.

SECTION 10. SECTION 8. Chapter 54 of the City of Berlin Municipal Code entitled "Solid Waste and Recycling," Article III entitled "Recycling," Section 54-41 entitled "Preparation and Collection of Recyclable Materials by the City," the un-numbered opening paragraph thereto is hereby repealed and recreated as follows:

Sec. 54-41 – 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 subsection 54-37(5) through (15):

SECTION 11. Chapter 54 of the City of Berlin Municipal Code entitled "Solid Waste and Recycling," Article III entitled "Recycling," Section 54-42 entitled "Prohibitions on Disposal of Recyclable Materials Separated for Recycling," is hereby repealed and recreated as follows:

Sec. 54-42 – 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 subsections 54-37(5) through (15), which have been separated for recycling, unless subject to a statutory exception and with the exception that waste tires may be burned with energy recovery in a solid waste treatment facility.

SECTION 12. SEVERABILITY. The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any

other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 13. EFFECTIVE DATE. This Ordinance shall take effect _____, 2026 upon its passage by the COMMON COUNCIL of the CITY OF BERLIN and publication as required by law.

SECTION 14. The numeric section numbers and headings of any portions of the CITY OF BERLIN Code of Ordinances affected by this Ordinance shall be subject to modification in the discretion of the codifier, and the approval of the CITY OF BERLIN Attorney, during codification into the CITY OF BERLIN'S current Code of Ordinances.

ROLL CALL VOTE:


4 AYES

1 NAYS

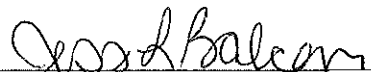
1 ABSENT

CITY OF BERLIN

BY:


CATRINA BURGESS
Mayor

ATTEST:


JESSI L. BALCOM
City Administrator/City Clerk

APPROVED AS TO FORM:


ERIC LARSON
City Attorney

