

TOWN OF CLAYTON ORDINANCE 2025-008

**AN ORDINANCE REGARDING RECYCLING RULES AND REGULATIONS IN THE
TOWN OF CLAYTON**

WHEREAS, the Town of Clayton, County of Winnebago, State of Wisconsin is designated as a Responsible Unit under Section 287.09(1) of the Wisconsin Statutes; and

WHEREAS, as a Responsible Unit, the Town of Clayton is authorized to develop and implement a recycling program to manage the solid waste generated within its region pursuant to the provisions of Section 287.09(2) of the Wisconsin Statutes; and

WHEREAS, effective July 1, 2025, the Department of Natural Resources revised the administrative code that oversees Responsible Units' effective recycling programs, requiring Responsible Units to modify their recycling ordinances to address new requirement; and

WHEREAS, this ordinance to establish an effective recycling program within the Town is in compliance with the new requirements established by the Department of Natural Resources.

NOW, THEREFORE, BE IT ORDAINED THAT, the Town Board of Supervisors of the Town of Clayton, County of Winnebago, State of Wisconsin, hereby adopts the following ordinance, thereby establishing the recycling program detailed therein.

Adopted this _____ day of _____, 20____

Russell D. Geise, Town Chair

ATTEST: _____
Kelsey Faust-Kubale, Town Clerk

**TOWN OF CLAYTON, COUNTY OF WINNEBAGO, STATE OF WISCONSIN
ORDINANCE 2025-008**

**AN ORDINANCE REGARDING THE RULES AND REGULATIONS OF RECYCLING
IN THE TOWN OF CLAYTON**

TABLE OF CONTENTS

SECTION I – Background & Authority
SECTION II – Definitions
SECTION III – Recycling Rules & Regulations
SECTION IV – Cart Rules
SECTION V – Enforcement

SECTION I. BACKGROUND & AUTHORITY

1. **Purpose.** The purpose of this ordinance is to promote recycling, composting, and resource recovery through the administration of an effective recycling program (this “**Ordinance**”), as provided in s. 287.11, Wis. Stats., and ch. NR 544, Wis. Adm. Code.
2. **Statutory Authority.** This Ordinance is adopted by the Town of Clayton, County of Winnebago, State of Wisconsin (the “**Town**”) as authorized under s. 287.09(3)(b), Wis. Stats. This Ordinance applies from the adoption date below forward.
3. **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 local, county, or state law. However, whenever this Ordinance imposes greater restrictions, the provisions of this ordinance shall apply.
4. **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 ch. NR 544, Wis. Adm. Code, and where the Ordinance provision is unclear, the provision shall be interpreted in light of the Wisconsin Statutes and the ch. 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.
5. **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.
6. **Applicability.** The requirements of this Ordinance shall apply to all persons within the Town.
7. **Administration.** The provisions of this Ordinance shall be administered by the Town and the Town Board of Supervisors (the “**Town Board**”).

8. **Collection Schedule.** Collection services for recyclable materials within the Town shall be provided by the Town or the Town's collection contractor once every week, on a scheduled collection day, Monday through Friday, subject to all of the terms and conditions of this Ordinance. Collection schedules for defined areas of the Town shall be determined by the Town. Collection schedules may be altered due to holidays or other circumstances, in the Town's discretion.
9. **Effective Date.** The provisions of this Ordinance shall take effect on [October 1, 2025].

SECTION II. DEFINITIONS

For the purpose of this Ordinance:

- **"Bi-metal container"** means a container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.
- **"Cart"** means the approved container specifically delivered by the Town or its agents to be used for the collection of recyclable materials by the Town.
- **"Container board"** means corrugated paperboard used in the manufacture of shipping containers and related products.
- **"Foam polystyrene packaging"** means packaging made primarily from foam polystyrene that satisfies one of the following criteria:
 - Is designed for serving food or beverages.
 - Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.
 - Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.
- **"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.
- **"HDPE"** means high density polyethylene, labeled by the resin code # 2.
- **"LDPE"** means low density polyethylene, labeled by the resin code # 4.
- **"Magazines"** means magazines and other materials printed on similar paper.
- **"Major appliance"** means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, furnace, boiler, dehumidifier, water heater or stove.
- **"Multiple-family dwelling"** means a structure containing 5 or more residential units, including units that are occupied seasonally.
- **"Newspaper"** means a newspaper and other materials printed on newsprint.
- **"Non-residential facilities and properties"** means commercial, retail, industrial, institutional and government facilities and properties. Non-residential facilities and properties includes any location at which goods or services are provided or manufactured, including locations under construction, demolition, or remodeling, or used for special events such as fairs, festivals, sport venues, conferences, and exhibits. This term does not include multiple family dwellings.

- **“Office paper”** means a variety of high-grade printing and writing papers. This term does not include industrial process waste, newspaper or packaging.
- **“Other resins or multiple resins”** mean plastic resins labeled by the resin code # 7.
- **“Property Owner”** means, collectively, the owners or designated agents of single family and 2-to-4-unit residences, multiple-family dwellings and non-residential facilities and properties located within the Town.
- **“Person”** includes any individual, corporation, limited liability company, partnership, association, local government unit, as defined in s. 66.0131(1)(a), Wis. Stats., state agency or authority or federal agency.
- **“PETE”** or **“PET”** means polyethylene terephthalate, labeled by the resin code # 1.
- **“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.
- **“Postconsumer waste”** means solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in s. 291.01(7) Wis. Stats., waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste, as defined in s. 289.01(17), Wis. Stats.
- **“PP”** means polypropylene, labeled by the resin code # 5.
- **“PS”** means polystyrene, labeled by the resin code # 6.
- **“PVC”** means polyvinyl chloride, labeled by the resin code # 3.
- **“Recyclable Materials”** means household waste that is accepted by the Town recycling program, including: 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.
- **“Solid waste”** has the meaning specified in s. 289.01(33), Wis. Stats.
- **“Solid waste facility”** has the meaning specified in s. 289.01(35), Wis. Stats.
- **“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.
- **“Waste tire”** means a tire that is no longer suitable for its original purpose because of wear, damage or defect.
- **“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.

SECTION III. RECYCLING RULES & REGULATIONS

1. **Separation of Recyclable Materials.** Occupants of single family and 2-to-4-unit residences, multiple-family dwellings and non-residential facilities and properties (collectively, **“Occupants”**) shall separate the following Recyclable Materials from postconsumer waste:

- a. Lead acid batteries
 - b. Major appliances
 - c. Waste oil
 - d. Antifreeze
 - e. Electronics
 - f. Scrap metal
 - g. Waste tires
 - h. Oil filters
 - i. Yard waste
 - j. Aluminum containers
 - k. Bi-metal containers
 - l. Corrugated paper or other container board
 - m. Foam polystyrene packaging
 - n. Glass containers
 - o. Magazines
 - p. Books
 - q. Newspaper
 - r. Office paper
 - s. Paper cartons
 - t. Rigid plastic containers made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or multiple resins
 - u. Steel containers
2. **Separation Requirements Exempted.** The separation requirements of Section III(1) do not apply to the following:
- a. Occupants that send their postconsumer waste to a processing facility licensed by the Wisconsin Department of Natural Resources (the “**WI DNR**”) that recovers the materials specified in Section III(1) from solid waste in as pure a form as is technically feasible.
 - b. Solid waste which is burned as a supplement fuel at a facility if less than 30% of the heat input to the facility is derived from the solid waste burned as supplement fuel.
 - c. A Recyclable Material specified in Sections III(1)(e) through (o) for which a variance has been granted by the WI DNR under s. 287.11(2m), Wis. Stats., or s. NR 544.14, Wis. Adm. Code.
3. **Care of Separated Recyclable Materials.** To the greatest extent practicable, Occupants shall keep the Recyclable Materials separated in accordance with Section III(1) clean and 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.

4. **Items to be Recycled at Winnebago County Solid Waste Drop-Site.** Occupants shall recycle the items listed in this Section III(4) at Winnebago County Solid Waste (charges may apply), as such items are banned from landfills. Information regarding local drop-sites can be found at www.RecycleMoreTriCounty.org.
- a. Lead acid batteries,
 - b. Major appliances,
 - c. Waste oil,
 - d. Antifreeze,
 - e. Electronics,
 - f. Scrap metal,
 - g. Waste tires,
 - h. Oil filters,
 - i. Yard waste.
5. **Composting.** Yard waste may be composted rather than taken to a drop-site. Composting may be done at Occupants' property or a composting facility, in accordance with the Town of Clayton Zoning Code of Ordinance and other applicable town, county, and state rules and regulations. Information regarding composting can be found at <https://www.townofclayton.net/media/546>.
6. **Preparation and Collection of Recyclable Materials.** Except as otherwise directed by the Board, occupants of single family and 2-to-4-unit residences shall do the following for the preparation and collection of the recyclable materials listed in this Section III(6):
- a. **Aluminum containers**, such as bottles and cans, shall be emptied, rinsed, and any caps shall be replaced back on the container, before being recycled with other curbside recycling. Aluminum pans and foil may not be recycled and must be disposed of in regular trash receptacles.
 - b. **Bi-metal containers** shall be emptied, rinsed, and any caps shall be replaced back on the container, before being recycled with other curbside recycling.
 - c. **Corrugated paper** or other container board shall be flattened, if boxes, and cut to no larger than 2' x 2', and then recycled with other curbside recycling.
 - d. **Foam polystyrene packaging** may be recycled at the Foam Dome at 1919 Holland Rd. in Appleton drop-off program only; otherwise, such products shall be disposed of in regular trash receptacles.
 - e. **Glass food and beverage containers** (excluding glass drinkware) shall be recycled with other curbside recycling.
 - f. **Magazines**, including junk mail and catalogs, shall be recycled with other curbside recycling.
 - g. **Books** shall be recycled with other curbside recycling.
 - h. **Newspaper** shall be recycled with other curbside recycling.
 - i. **Office paper** shall be recycled with other curbside recycling.

- j. **Paper cartons**, such as for milk, juice, and soup, shall be recycled with other curbside recycling.
 - k. **Rigid plastic containers**, such as dairy, produce, bakery, and deli containers and lid (excluding motor oil bottles) shall be recycled with other curbside recycling.
 - l. **Steel** containers shall be recycled with other curbside recycling.
7. **Non-Recyclable Materials.** This Section III(7) provides a non-exclusive list of items which are not recyclable and should be disposed of in regular trash receptacles:
- a. Foam polystyrene packaging (unless recycled as provided in Section III(6)(d)),
 - b. Plastic motor oil bottles
 - c. Plastic bags, film, and wraps,
 - d. Liquids and foods,
 - e. Shredded paper,
 - f. Tissue paper,
 - g. Pet food bags,
 - h. Mirrors,
 - i. Window glass,
 - j. Drinking glassware,
 - k. Ceramics & china,
 - l. Propane tanks,
 - m. Aluminum pans and foil,
 - n. Aerosol cans,
 - o. Empty paint cans,
 - p. Pet food cans.
8. **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 Sections III(1)(e) through (o):
 - i. Provide adequate, separate containers for the recycling program established in compliance with this Ordinance. The number of recycling containers shall equal or be greater than the number of trash containers and at least one of the following shall be met:
 - 1. The minimum total volume of recycling container space is equal to 20 gallons per week per dwelling unit.
 - 2. The ratio of trash container volume to recycling container volume is at most 2:1.
 - 3. An alternative method that does not result in the overflow of a recycling container during the time period between collection of materials and delivery to a recycling facility.
 - ii. Notify tenants in writing at the time of renting or leasing the dwelling and at least semi-annually thereafter about the established recycling program.

- iii. 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.
 - iv. Notify tenants which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, and locations of drop-off collection sites to recycle materials not collected on-site.
 - b. The requirements specified in Section III(8)(a) 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 WI DNR that recovers for recycling the materials specified in Sections III(1)(e) through (o) from solid waste in as pure a form as is technically feasible.
9. **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 Sections III(1)(e) through (o):
 - i. Provide adequate, separate containers for the recycling 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.
 - ii. Notify in writing, at least semi-annually, all users, tenants and occupants of the properties about the established recycling program.
 - iii. 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.
 - iv. Notify users, tenants and occupants which materials are collected, how to prepare materials in order to meet the processing requirements, collection methods or sites, and locations of drop-off collection sites to recycle materials not collected on-site.
 - b. The requirements specified in Section III(9)(a) 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 WI DNR that recovers for recycling the materials specified in Sections III(1)(e) through (o) from solid waste in as pure a form as is technically feasible.
10. **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 Sections III(1)(e) through (o) that have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.
11. **Scavenging Prohibited.** Recyclable Materials placed for collection shall remain the property of the Occupant that placed the items until the items are collected by the Town's collection contractor, at which time it shall become the property of the Town. No persons

other than the Property Owner, Occupant that placed the items for collection, the Town, or the Town's collection contractor, may take possession of such items.

SECTION IV. CART RULES

1. **Only Recyclable Materials in Carts Will Be Collected.** Recyclable Materials that are not placed in the appropriate cart will not be collected. All Recyclable Materials must fit within the cart and not extend beyond the upper edge of the cart to the point where it may fall or blow out. Property Owners and Occupants shall be responsible for compressing Recyclable Materials to fit, reducing production of Recyclable Materials, or obtaining a larger or additional cart as necessary to comply.
2. **Only Recyclable Materials Allowed in Carts.** Only Recyclable Materials may be placed in carts; placement of any other materials in carts is prohibited.
3. **Cart Placement and Removal Times.** Carts shall be placed for collection no earlier than 12:00 pm CST the day before scheduled collection, and no later than 6:00 am CST the day of scheduled collection. Carts that have been emptied shall be removed from the collection no later than 9:30pm the day of scheduled collection; carts that have not been emptied shall be removed from the collection location no later than 12:00 pm CST the day after scheduled collection. Violations of this subsection may result in carts being removed by the Town, and fees for the removal and return of the carts being charged to the Property Owner responsible for the placement of the carts, as provided in this Ordinance.
4. **Recycle Cart Orientation.** Carts shall be placed within 2 feet of the street on one side of the driveway. Recycle carts must keep 3 feet of clearance between the carts and other objects such as mailboxes and vehicles. The arrows on the lid of the recycle cart must point towards the street.
5. **Placement of Items in Others' Carts Prohibited.** No one other than Property Owners and Occupants of the properties with which the carts are associated may place any items in carts.
6. **Care and Replacement of Carts and Containers.** Property Owners and Occupants are responsible for the proper usage and care of carts. Carts shall be kept in a clean and sanitary condition. Carts may not be altered in any way. Property Owners shall be responsible, at their expense, for the replacement of carts that are stolen, lost, damaged, or are rendered unusable by user acts or neglect.
7. **Cart Use Restricted to Eligible Properties.** Properties that are not located within the Town, or are otherwise not subject to the terms of this Ordinance, are prohibited from using Town-supplied carts.
8. **Initial Cart Delivery.** Carts will be assigned and delivered to eligible properties by the Town or its agents. The initial delivery shall be at the Town's expense.
9. **Ownership of Carts.** Carts remain solely the property of the contractor providing collection services for the Town, and shall not be the property of the Property Owner.
10. **Carts Stay with Eligible Properties.** Carts shall remain at their assigned properties, regardless of any changes in ownership or occupancy.

SECTION V. ENFORCEMENT

1. For the purpose of ascertaining compliance with the provisions of this Ordinance, any authorized officer, employee or representative of the Town 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 who requests access for purposes of inspection, and who presents appropriate credentials. No person may obstruct, hamper, or interfere with such an inspection.
2. Any person who violates a provision of this Ordinance may be issued a citation by the Town 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 Section III(10) of this Ordinance 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 Ordinance, except Section III(10), may be required to forfeit not less than \$10 or more than \$1000 for each violation, unless otherwise specified.

SIGNATURE PAGE FOLLOWS

Adopted this _____ day of _____, 20____

Russell D. Geise, Town Chair

ATTEST: _____
Kelsey Faust-Kubale, Town Clerk