ORDINANCE NO. 852

AN ORDINANCE TO REPEAL AND RECREATE CHAPTER 86, ARTICLE III OF THE CITY OF FORT ATKINSON CODE OF GENERAL ORDINANCES RELATING TO RECYCLING

WHEREAS, the State of Wisconsin enacted the solid waste reduction, recovery, and recycling law in 1990 (1989 WI Act 335) to promote the development of waste management structures and encourage reduction, reuse, and recycling of Wisconsin's solid waste; and

WHEREAS, the Wisconsin Department of Natural Resources (DNR) promulgated administrative rules to implement §287 Wis. Stats. under Chapter NR 544 of the Wisconsin Administrative Code; and

WHEREAS, the City of Fort Atkinson adopted these statutes and administrative rules through Chapter 86, Article III of the City's Code of Ordinances in 1994, which has been updated from time to time; and

WHEREAS, in May 2024, Wisconsin's Governor approved new administrative rules relating to statewide materials recycling and effective recycling programs, which were published on June 30, 2025 and effective on July 1, 2025; and

WHEREAS, the general objectives of the proposed rules are to correct, clarify, and update effective recycling program criteria throughout Chapter NR 544, Wisconsin Administrative Code, as well as amend sections of other code chapters relating to waste reduction, recovery, and recycling efforts; and

WHEREAS, in order for the City of Fort Atkinson to have an effective recycling program as required by §287.11, Wis. Stats. and be eligible for recycling grants, the City must adopt the new rules included in Chapter NR 544 and included in the DNR's model ordinance.

NOW THEREFORE, the City Council of the City of Fort Atkinson, Wisconsin, does hereby ordain as follows:

Section 1. Repeals Article III of Chapter 86 of the City's Code of General Ordinances.

Section 2. Recreates Article III of Chapter 86 of the City of Fort Atkinson Municipal Code to read as follows:

"Sec. 86-76. Title. Recycling Ordinance for the City of Fort Atkinson

Sec. 86-77. 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 s. 287.11, Wis. Stats., and ch. NR 544, Wis. Adm. Code.

Sec. 86-78. Statutory Authority. This ordinance is adopted as authorized under §287.09(3)(b), Wis. Stats., and City of Fort Atkinson.

Sec. 86-79. 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.

Sec. 86-80. 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.

Sec. 86-81. 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.

Sec. 86-82. Applicability. The requirements of this ordinance apply to all persons within the city limits.

Sec. 86-83. Administration. The provisions of this ordinance shall be administered by the City Council.

Sec. 86-84. Effective Date. The provisions of this ordinance shall take effect on the effective date of this ordinance.

Sec. 86-85. Definitions. For the purpose 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) "Foam polystyrene packaging" means packaging made primarily from foam polystyrene that satisfies one of the following criteria:
   a) Is designed for serving food or beverages.
   b) Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.

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

4) "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.
5) "HDPE" means high density polyethylene, labeled by the resin code # 2.
6) "LDPE" means low density polyethylene, labeled by the resin code # 4.
7) "Magazines" means magazines and other materials printed on similar paper.
8) "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.
9) "Multiple-family dwelling" means a structure containing 5 or more residential units, including units that are occupied seasonally.
10) "Newspaper" means a newspaper and other materials printed on newsprint.
11) "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.
12) "Office paper" means a variety of high-grade printing and writing papers. This term does not include industrial process waste, newspaper or packaging.
13) "Other resins or multiple resins" mean plastic resins labeled by the resin code # 7.
14) "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.
15) "PETE" or "PET" means polyethylene terephthalate, labeled by the resin code # 1.
16) "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.
17) "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.
18) "PP" means polypropylene, labeled by the resin code # 5.
19) "PS" means polystyrene, labeled by the resin code # 6.
20) "PVC" means polyvinyl chloride, labeled by the resin code # 3.
21) "Recyclable materials" includes lead acid batteries; major appliances; waste oil; yard waste; aluminum containers; corrugated paper or other container board; foam polystyrene packaging; glass containers; magazines; newspaper; office paper; rigid plastic containers, including those made of PETE, HDPE, PVC, LDPE, PP, PS and other resins or multiple resins; steel containers; waste tires; and bi-metal containers.
22) "Solid waste" has the meaning specified in s. 289.01(33), Wis. Stats.

23) "Solid waste facility" has the meaning specified in s. 289.01(35), Wis. Stats.
24) "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.
25) "Waste tire" means a tire that is no longer suitable for its original purpose because of wear, damage or defect.
26) "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.

Sec. 86-86. 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) Office paper
13) Rigid plastic containers made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or multiple resins
14) Steel containers
15) Waste tires

Sec. 86-87. Separation Requirements Exempted. The separation requirements of Sec. 86-86 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. 86-86 from solid waste in as pure a form as is technically feasible.
2) 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.
3) A recyclable material specified in Sec. 86-86(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. Adm. Code.

Sec. 86-88. Care of Separated Recyclable Materials. To the greatest extent practicable, the recyclable materials separated in accordance with Sec. 86-86 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.

Sec. 86-89. Management of Lead Acid Batteries, Major Appliances, Waste Oil and Yard Waste. Occupants of single family and 2-to-4-unit residences, multiple-family dwellings and non-residential facilities and properties shall manage lead acid batteries, major appliances, waste oil, and yard waste as follows:

1) Lead acid batteries shall be placed at the roadside, separated from solid waste for collection by the City's solid waste contractor. Car, truck and other automotive batteries only will be collected. Battery casings must be unbroken before collection shall take place.
2) Major appliances shall be placed at roadside separated from solid waste collection by the city's solid waste contactor. Appliances shall be upright and empty. Freezers and refrigerators must have their doors removed. Microwaves must have the capacitors removed. City residents must contact the city's solid waste contractor to arrange for pickup, disposal and required payment for all such appliances.
3) Waste oil shall be placed at roadside separated from solid waste for collection by the city's solid waste contractor. This waste oil will be picked up on the designated days for recycling only (twice per month) and shall be placed at the curb next to the recycling container. Common engine oil only will be collected. Such oil must be in leak-proof containers of a maximum size of one gallon.
4) Yard waste shall be composted by the homeowner via the city compost site or backyard composting.

Sec. 86-90. Preparation and Collection of Recyclable Materials. Except as otherwise directed by the authorized officer, employee or representative of the city's contractor, 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. 86-86 (5) through (15):

1) Aluminum containers shall be placed in the recycling container for collection.
2) Bi-metal containers shall be rinsed, have labels removed and be flattened to save space and shall be placed in the recycling container provided for collection.
3) Corrugated paper or other container board shall be flattened and placed in the recycling container for collection.
4) Foam polystyrene packaging shall be placed in the garbage container for disposal.
5) Glass containers shall be rinsed, all metal and plastic cups and rings shall be removed, and the containers shall be placed in the recycling container for collection.
6) Magazines shall be placed within the recycling container for collection.
7) Newspaper shall be placed within the recycling container for collection.

8) Office paper shall be placed within the recycling container for collection.
9) Rigid plastic containers shall be prepared and collected as follows:
   a) Plastic containers made of PETE, including such as two-liter soda bottles, peanut butter containers and other see-through food containers, shall be rinsed and placed within the recycling container for collection. The container may be flattened to save space within the recycling container.
   b) Plastic containers made of HDPE, such as milk cartons and bottles containing detergent, antifreeze and bleach, shall be rinsed and placed within the recycling container for collection. The container may be flattened to save space within the recycling container.
   c) Plastic containers made of PVC will be collected for recycling and/or disposal by the contracted recycling collection agent.
   d) Plastic containers made of LDPE will be collected for recycling and/or disposal by the contracted recycling collection agent.
   e) Plastic containers made of PP will be collected for recycling and/or disposal by the contracted recycling collection agent.
   f) Plastic containers made of PS will be collected for recycling and/or disposal by the contracted recycling collection agent.
   g) Plastic containers made of other resins or multiple resins will be collected for recycling and/or disposal by the contracted recycling agent.
10) Steel containers shall be rinsed, labels removed and placed in the recycling container provided for collection. The containers may be flattened to save space within the recycling container.
11) Waste tires shall be placed by the curb for collection as bulk pickup. Light truck tires and smaller will be accepted, and tractor tires must be quartered. No more than two tires will be collected per month, not to exceed eight tires per year per home.
12) Each residential unit in the city shall be provided with an authorized recycling container. All recyclables shall be prepared and collected as set forth above. Except as otherwise stated, all recyclable materials may be commingled in the container. Such container may be placed within five feet of the roadside by 6 a.m. on the designated day of pickup in an area of easy accessibility. Recyclables that have been scattered by wind, animals, vandals, or the like shall be the responsibility of the resident to retrieve and store properly.

Sec. 86-91. 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 to recycle the materials specified in Sec. 86-86 (5) through (15):
   a) Provide adequate, separate containers for the recycling program established in compliance with the 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:
      i. The minimum total volume of recycling container space is equal to 20 gallons per week per dwelling unit.
      ii. The ratio of trash container volume to recycling container volume is at most 2:1.

iii. 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.

b) Notify tenants in writing at the time of renting or leasing the dwelling and at least semi-annually 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 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.

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 in Sec. 86-86 (5) through (15) from solid waste in as pure a form as is technically feasible.

Sec. 86-92. Responsibilities of Owners or Designated Agents of Non-Residential Facilities and Properties.

1) Owners or designated agents of non-residential facilities and properties shall do all of the following to recycle the materials specified in Sec. 86-86 (5) through (15):
   (a) 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.
   (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 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.
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. 86-86 (5) through (15) from solid waste in as pure a form as is technically feasible.

Sec. 86-93. Proper Disposal of Garbage and Recyclables Materials.

1) Antiscavanging or unlawful removal of recyclable materials. It shall be unlawful for any person, unless under contract with or licensed by the City, to collect or remove any recyclable material that has been deposited or placed at the curb or in a container adjacent to a home or nonresidential building for the purposes of collection for recycling.

2) No dumping. It shall be unlawful for any person to dispose of or dump garbage or recyclable materials in any street, alley, or other public place within the City or in any receptacles or on private property without the owner's consent unless it is placed in containers in the manner and at the time specified by this article. No person shall place for collection any garbage or recyclable materials at the curb not owned or occupied by such person.
3) Garbage from outside the City. It shall be unlawful to bring refuse for disposal and recyclables from outside the corporate limits into the City unless authorized by agreement with the City.

Sec. 86-94. 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 Sec. 86-86 (5) through (15) that have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.

Sec. 86-95. Enforcement.

1) For the purpose of ascertaining compliance with the provisions of this ordinance, any authorized officer, employee or representative of the City or its solid waste contractor 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 City or its solid waste contractor 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 City of Fort Atkinson 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. 86-94 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. Violators may also be subject to reinspection fees per Sec. 1-16 of the City's Code of General Ordinances.
   (b) Any person who violates a provision of this ordinance, except Sec. 86-94, may be required to forfeit not less than $10 or more than $1000 for each violation. Violators may also be subject to reinspection fees per Sec. 1-16 of the City's Code of General Ordinances."

Section 3. Upon its adoption, the clerk is hereby directed to send a copy of this ordinance to the Wisconsin Department of Natural Resources.

Section 4. Effective Date. This ordinance shall take effect on after passage, publication, and attestation as required by law.

Enacted by the City Council of the City of Fort Atkinson, Jefferson County, Wisconsin, this 3rd day of March, 2026.

Fort Atkinson City Council

Kyle Jaeckel, President

ATTEST:

Courtney Thom, Deputy Clerk