

**COMMON COUNCIL - CITY OF MUSKEGO  
ORDINANCE #1452**

**AN ORDINANCE TO AMEND CHAPTER 350, ARTICLE III,  
OF THE MUNICIPAL CODE OF THE CITY OF MUSKEGO  
(Recycling)**

THE COMMON COUNCIL OF THE CITY OF MUSKEGO, WISCONSIN DO ORDAIN AS FOLLOWS:

SECTION 1: Chapter 350, Article III, of the Municipal Code of the City of Muskego, is hereby amended to read as follows:

**§ 350-26. 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 § 287.11, Wis. Stats., and Ch. NR 544, Wis. Adm. Code.

**§ 350-27. Statutory authority.**

This article is adopted as authorized under § 287.09(3)(b), Wis. Stats.

**§ 350-28. 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.

**§ 350-29. 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 Wisconsin 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 of this article is required by Wisconsin Statutes, or by a standard in Ch. NR 544, Wis. Adm. Code, and where the provision of this article is unclear, the provision shall be interpreted in light of the Wisconsin Statutes and the Chapter NR 544 standards in effect on the date of the adoption of this article, or in effect on the date of the most recent text amendment to this article.

**§ 350-30. 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.

**§ 350-31. Applicability.**

The requirements of this article apply to all persons within the City of Muskego.

**§ 350-32. Definitions.**

For the purposes of this article, the following terms shall have the meanings indicated:

**BIMETAL CONTAINER**

A container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.

**CONTAINER BOARD**

Corrugated paperboard used in the manufacture of shipping containers and related products.

**FOAM POLYSTYRENE PACKAGING**

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.

**GLASS CONTAINER**

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**

High-density polyethylene, labeled by the SPI Code No. 2.

**LDPE**

Low-density polyethylene, labeled by the SPI Code No. 4.

**MAGAZINES**

Magazines and other materials printed on similar paper.

**MAJOR APPLIANCE**

A residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, stove, residential or commercial furnace, boiler, dehumidifier or water heater.

**MULTIPLE-FAMILY DWELLING**

A property containing five or more residential units, including those which are occupied seasonally.

**NEWSPAPER**

A newspaper and other materials printed on newsprint.

**NONRESIDENTIAL FACILITIES AND PROPERTIES**

Commercial, retail, industrial, institutional and governmental facilities and properties. This term does not include multiple-family dwellings.

**OFFICE PAPER**

High-grade printing and writing papers from offices in nonresidential facilities and properties. Printed white ledger and computer printout are examples of office paper generally accepted as high grade. This term does not include industrial process waste.

**OTHER RESINS or MULTIPLE RESINS**

Plastic resins labeled by the SPI Code No. 7.

**PERSON**

Includes any individual, corporation, partnership, association, local governmental unit, as defined in § 66.0131(1)(a), Wis. Stats., state agency or authority or federal agency.

**PETE**

Polyethylene terephthalate, labeled by the SPI Code No. 1.

**PLASTIC CONTAINER**

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**

Solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in § 291.01(7), Wis. Stats., waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste, as defined in § 289.01(17), Wis. Stats.

**PP**

Polypropylene, labeled by the SPI Code No. 5.

**PS**

Polystyrene, labeled by the SPI Code No. 6.

**PVC**

Polyvinyl chloride, labeled by the SPI Code No. 3.

**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 bimetal containers.

**SOLID WASTE**

Has the meaning specified in § 289.01(33), Wis. Stats.

**SOLID WASTE FACILITY**

Has the meaning specified in § 289.01(35), Wis. Stats.

**SOLID WASTE TREATMENT**

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**

A tire that is no longer suitable for its original purpose because of wear, damage or defect.

**YARD WASTE**

Leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than six inches in diameter. This term does not include stumps, roots or shrubs with intact root balls.

**§ 350-33. Separation of recyclable materials.**

Occupants of single-family and two- to four-unit residences, multiple-family dwellings and nonresidential facilities and properties shall separate the following materials from postconsumer waste in the manner and beginning on the dates provided herein:

- A. Lead acid batteries.
- B. Major appliances.
- C. Waste oil.
- D. Yard waste.
- E. Aluminum containers.
- F. Bimetal containers.
- G. Corrugated paper or other container board.
- H. Foam polystyrene packaging.
- I. Glass containers.
- J. Magazines.
- K. Newspapers.
- L. Office papers.
- M. Rigid plastic containers made of PETE, HDPE, PVC, LDPE, PP, PS and other resins or multiple resins.
- N. Steel containers.
- O. Waste tires.

**§ 350-34. Exemptions.**

The separation requirements of § **350-33** do not apply to the following:

- A. Occupants of single-family and two- to four-unit residences, multiple-family dwellings and nonresidential 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 § **350-33** from solid waste in as pure a form as is technically feasible.
- B. 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.
- C. A recyclable material specified in § **350-33E** through **O** for which a variance has been granted by the Department of Natural Resources under § 287.11(2m), Wis. Stats., or § NR 544.14, Wis. Adm. Code.

**§ 350-35. Care of separated recyclable materials.**

To the greatest extent practicable, the recyclable materials separated in accordance with § **350-33** 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.

**§ 350-36. Management of lead acid batteries, major appliances, waste oil and yard waste.**

Occupants of single-family and two- to four-unit residences, multiple-family dwellings and nonresidential facilities and properties shall manage lead acid batteries, major appliances, waste oil, and yard waste as follows:

- A. Lead Acid Batteries shall be disposed of in a manner as described in the City of Muskego's website which may be amended from time to time.
- B. Major Appliances shall be disposed of in a manner as described in the City of Muskego's website which may be amended from time to time. In the case of nonresidential facilities, major appliances shall be managed as provided in § **350-39**.
- C. Waste Oil shall be disposed of in a manner as described in the City of Muskego's website which may be amended from time to time.
- D. Yard Waste shall be disposed of in a manner as described in the City of Muskego's website which may be amended from time to time.

**§ 350-37. Preparation and collection of recyclable materials.**

Except as otherwise directed by the Public Works and Development Director or designee, occupants of single-family and two- to four-unit residences shall provide for the preparation and collection of the separated materials specified in § 350-33E through O by cleaning those materials from any residue and then placing the materials curbside, or at the location on the property designated for refuse collection at two- to four-unit residences if other than curbside, in the designated recycling container, on alternating weeks as directed by the Public Works and Development Director or designee, on the same day as normal refuse collection. Materials must be separated and prepared for recycling beginning on the following dates noted below:

- A. Beginning July 1, 1994, the following materials shall be separated and placed curbside for recycling:
  - (1) Aluminum containers.
  - (2) Bimetal containers.
  - (3) Glass containers.
  - (4) Newspapers.
  - (5) Plastic containers made of PETE and HDPE, unless directed otherwise by the Public Works and Development Director or designee due to excessive contamination by oil, antifreeze or other substances.
  - (6) Steel containers.
  - (7) Waste tires.
- B. The following materials shall be separated and placed curbside for recycling beginning January 1, 1995:
  - (1) Corrugated paper or other container board.
  - (2) Magazines.
  - (3) Office papers.
- C. The following materials shall not be placed curbside for recycling until directed by the Public Works and Development Director or designee or otherwise directed by the City:
  - (1) Plastic containers made of PVC, LDPE, PP, PS and other resins or multiple resins.
  - (2) Foam polystyrene packaging.

**§ 350-38. Responsibilities of owners or designated agents of multiple-family dwellings and two- to four-unit residences.**

- A. Owners or designated agents of multiple-family dwellings and two- to four-unit residences shall do all of the following to recycle the materials specified in § 350-33E through O:
  - (1) Provide that the separate containers specifically designated for the recyclable materials are placed in an accessible location adjacent to the containers provided for normal refuse collection.
  - (2) Notify tenants in writing at the time of renting or leasing the dwelling and at least semiannually thereafter about the established recycling program and recycling requirements, including but not limited to the requirements of this article.
  - (3) Notify tenants of reasons to reduce and recycle solid waste, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.
- B. Owners or designated agents of multiple-family dwellings shall be responsible for control of all containers and for enforcement of these requirements among tenants.

**§ 350-39. Responsibilities of owners or designated agents of nonresidential facilities and properties.**

- A. Effective January 1, 1995, or such other date as directed by the Public Works and Development Director or designee pursuant to state law, owners or designated agents of nonresidential facilities and properties shall do all of the following to recycle the materials specified in § 350-33E through O:
  - (1) Provide adequate, separate containers for the recyclable materials.
  - (2) Notify in writing, at least semiannually, all users, tenants and occupants of the properties about the established recycling program.
  - (3) 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.
  - (4) Notify users, tenants and occupants of reasons to reduce and recycle, which materials are collected, how to prepare materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.

- B. The requirements specified in Subsection A(1) do not apply to the owners or designated agents of nonresidential 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 § **350-33E** through **O** from solid waste in as pure a form as is technically feasible.

**§ 350-40. Prohibitions on disposal of 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 § **350-33E** through **O** which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.

**§ 350-41. Replacement of recycling containers.**

In the event that a container is lost, stolen, removed from the property to which it was assigned or damaged to the extent that it is no longer usable for recycling purposes, the property owner shall be charged by the City for all costs incurred by the City in replacing the container.

**§ 350-42. Enforcement; violations and penalties.**

- A. For the purposes of ascertaining compliance with the provisions of this article, any authorized officer, employee or representative of the City of Muskego 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 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 of Muskego who requests access for purposes of inspection and who presents appropriate credentials. No person may obstruct, hamper, or interfere with such an inspection.
- B. Any person who violates a provision of this article may be issued a citation for noncompliance. 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 subsection.
- C. Penalties for violating this ordinance may be assessed as follows:
  - (1) Any person who violates § **350-40** 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 **350-40**, may be required to forfeit not less than \$10 or more than \$1000 for each violation.

SECTION 2: The several sections of this Ordinance are declared to be severable. If any section or portion thereof shall be declared by a decision of 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 not affect the validity of all other provisions, sections, or portion thereof of the Ordinance which shall remain in full force and effect. Any other Ordinance whose terms are in conflict with the provisions of this Ordinance is hereby repealed as to those terms that conflict.

SECTION 3: This Ordinance shall be in full force and effect from and after its passage and publication.

PASSED AND APPROVED THIS 27th DAY OF OCTOBER 2020.

CITY OF MUSKEGO

---

Rick Petfalski, Mayor

ATTEST:

First reading: October 13, 2020

---

Clerk-Treasurer

Ordinance Published: November 4, 2020

10/2020cmc