



# Garbage Collection and Recycling FAQs

Curt Witynski, JD, Deputy Executive Director, League of Wisconsin Municipalities

## 1. Must municipalities provide garbage collection services?

No. While cities and villages have traditionally and historically provided garbage collection services to their residents, Wisconsin municipalities are not required by law to do so and indeed many, mainly small, communities do not provide such a service. While large communities tend to use their own employees and equipment to collect solid waste, many medium and small communities contract with private haulers for such services.

## 2. What about recycling? Must communities collect

**recyclables?** Yes. Every city and village is required to administer their own recycling collection program or contract with another local government (also known as a responsible unit under the recycling law) to manage the recycling program within the community. Wisconsin Stat. § 287.09.

## 3. May a municipality provide garbage collection services for some classes of property but not others? Yes. Wis. Stat.

§ 66.0405 expressly provides that “cities, villages, and towns may remove... garbage and rubbish from such classes of places in the city, village, or town as the board or council directs.” The statute further states that “Districts may be created and removal provided for certain districts only, and different regulations may be applied to each removal district or class of property.” This statute has been interpreted by the Wisconsin Court of Appeals to provide municipalities with substantial discretion in creating classifications for garbage pickup. For example, in *Rubin v. City of Wauwatosa*,<sup>1</sup> the court of appeals upheld the city’s garbage program, which in 1983 involved picking up garbage from residential and commercial properties, but not industrial. Also, the city used its general fund to pay for residential garbage service and charged commercial properties a fee for the service. The city also charged residential properties special charges to pick up large items like appliances. The court upheld all aspects of the city’s

program against challenges based on lack of authority and equal protection arguments. Similarly, the Court of Appeals upheld the City of Racine’s decision to not provide solid waste pickup for buildings containing five or more dwelling units.

*Carpenter v. Commissioner of Public Works of the City of Racine*.<sup>2</sup> For a more detailed discussion of these cases, see League legal opinion Ordinances & Resolutions #438.

## 4. How can communities pay for garbage and recycling collection services?

The cost of a garbage and/or recycling collection program may be paid for out of a community’s general fund or by charging a fee against the property served. Wisconsin Stat. § 66.0627 authorizes a municipality to charge for various “current services” including “garbage and refuse disposal” and “recycling.”

## 5. When a community shifts from paying for garbage collection services through the property tax to a fee, is there an impact on the community’s levy limit?

Yes. If a municipality adopts a new fee or a fee increase for garbage collection services which were partly or wholly funded in 2013 by property taxes, the municipality must reduce its levy limit by the amount of revenue from the new fee or fee increase. See Wisconsin Stat. § 66.0602(2m)(b). Note, that this requirement does **not** apply to **recycling fees**. The Department of Revenue (DOR), which oversees municipal compliance with the levy limit law, interprets the term “garbage collection” in Wisconsin Stat. § 66.0602(2m) (b), to not include recycling. Therefore, if a community adopts a new recycling fee or increases an existing recycling fee, there is no requirement that it reduce its levy limit by the amount of recycling fee revenue it collects.

Curt Witynski is the League’s Deputy Executive Director. Contact Curt at [witynski@lwm-info.org](mailto:witynski@lwm-info.org)

**Sanitation 30**