

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 14 (GARBAGE AND TRASH) OF THE CODE OF ORDINANCES

WHEREAS, The City of Minot has the authority to enact ordinances relating to collection of garbage and trash;

WHEREAS, The City of Minot previously enacted various Ordinances under Chapter 14 of the City of Minot Code of Ordinances relating to Garbage and Trash;

WHEREAS, The City of Minot desires to amend Chapter 14 of the City of Minot Code of Ordinances;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MINOT:

§1. That Chapter 14 (Garbage and Trash) of the Code of Ordinances, City of Minot, North Dakota, is hereby amended to read as follows:

**Chapter 14 – Garbage and Trash**

**ARTICLE I. – In General**

**Sec. 14-1. - Definitions.**

As used in this chapter, unless otherwise required:

*Abandon* means a voluntary and permanent cessation of control over one’s personal property.

*Dispose* means the actual or arranged removal of personal possessions from one’s residence, business, or other property.

*Garbage and trash* means waste.

*Garbage cart* means a container which meets the requirements of section 14-153.

*Hazardous waste* means waste determined to be hazardous by the state department of health or the director of public works. The director of public works may determine waste to be hazardous which:

- (1) Causes or significantly contributes to an increase in death or serious illness;
- (2) Poses a substantial hazard to human or environmental health when improperly treated, stored, disposed of, or otherwise managed; or
- (3) Exhibits extraction procedure (EP) toxicity, corrosiveness, flammability, or chemical reactivity.

*Industrial waste* means special waste as defined in NDCC 23-29-03(14).

*Inert waste* means nonputrescible waste which does not generally contaminate water or form a contaminated lechate. Inert waste does not serve as food for vectors. Inert waste includes, but is

not limited to: construction and demolition material such as metal, wood, bricks, masonry and cement concrete, tires, tree branches, bottom ash from coal fire boilers, and waste coal fines from air pollution control equipment.

*Major appliance* means an air conditioner, clothes drier, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, stove, furnace, water heater, humidifier, dehumidifier, garbage disposal, trash compactor, or other similar appliance.

*Regulated infectious waste* means waste defined as such in Chapter 33-20-12 of the North Dakota Administrative Code.

*Scatter* means to place or abandon waste where it may be moved by the environment.

*Waste* means abandoned or disposed personal property reasonably perceived as not wanted by the owner. Waste does not include material which is lawfully disposed in the city sanitary sewer system.

*Yard waste* means grass clippings and other similar organic materials commonly associated with the yard of a domestic residence.

**Sec. 14-2. - Improper disposal or abandonment of waste prohibited.**

- (a) It is unlawful to abandon or scatter waste, except as allowed in this section.
- (b) A person may dispose of waste as prescribed by a valid and lawful state, federal, or local license or permit, or otherwise as allowed by state and federal law and regulation.
- (c) A person may dispose of waste, other than those wastes described in subsection (d), by delivering the waste to the city waste management utility, or by surrendering the waste to the utility for collection. Waste disposal must occur in accordance with the restrictions of this chapter and the regulations adopted by the director of public works.
- (d) The wastes which are not disposable pursuant to subsection (c) are the following:
  - (1) Liquids exceeding amounts occurring normally in household waste.
  - (2) Regulated infectious waste, except for:
    - a. Regulated infectious waste in amounts normally present in household waste; or
    - b. Regulated infectious waste treated pursuant to Chapter 33-20-12 of the North Dakota Administrative Code and which is lawfully delivered to a waste transporter.
  - (3) Hazardous waste, except in amounts normally present in household waste.
  - (4) Petroleum oil or petroleum grease.
  - (5) Major appliances.
  - (6) Industrial waste.
  - (7) Raw or digested sewage sludge, grit chamber cleanings, animal manure, septic tank pumpings, bar screenings, and other such sludge.
  - (8) Lead acid batteries.
  - (9) Any other substance or material prohibited by regulation adopted by the director of public works.

- (e) Notwithstanding subsection (d), a waste management utility may accept prohibited waste selectively, at the discretion of the director of public works. The director of public works may impose reasonable conditions on accepting prohibited waste.
- (f) Strict liability is the level of culpability necessary to establish an offense under this section. In the event of a prosecution, it is an affirmative defense that waste was disposed of or abandoned as allowed by this section.

**Secs. 14-3—14-100. - Reserved.**

**ARTICLE II. - WASTE MANAGEMENT UTILITY**

**DIVISION 1. - GENERALLY**

**Sec. 14-101. - Created; powers.**

- (a) The city waste management utility is hereby created as a city utility fund.
- (b) The waste management utility has the power to:
  - (1) own and dispose of real and personal property, or interests therein;
  - (2) to sue and be sued;
  - (3) to exercise the power of eminent domain; and
  - (4) to pledge and expend the revenues provided for in this chapter (see sections 14-126 and 14-127), and such other monies or assets as lawfully may be placed at its disposal.
- (c) The waste management utility shall be under the control and direction of the director of public works.

**Sec. 14-102. - Collected waste an asset.**

The waste management utility has a proprietary ownership interest in waste which it collects and all places where it disposes of, treats, or stores such waste, unless the waste is transferred to another party by the utility for disposal, treatment, or storage. Access to the premises where the utility disposes of, treats, or stores its collected waste, and any removal of waste from those premises, will be subject to reasonable rules provided by the director of public works. A knowing failure to adhere to such rules is an offense.

**Secs. 14-103 Mandatory Waste Collection**

The waste management utility has sole responsibility to collect, transport and dispose of all residential waste except residential waste from (1) mobile home parks; (2) apartment buildings with more than four (4) units; and (3) multi-level condominium complexes with units that do not have an individual ground floor exit. Where ambiguity exists in the type of residential unit, the requirement for waste management utility collection services shall be at the discretion of the public works director. The City of Minot shall not be held responsible for damage to private property roadways during waste management collection.

## **DIVISION 2. - FEES AND COLLECTION**

### **Sec. 14-126. - Mandatory fees.**

Pursuant to the city's taxing, police, and proprietary powers, there is hereby imposed upon every person who has an account with the city water and sewer utility, a waste management utility fee in the following amounts: ~~amount of eight dollars and sixty eight cents (\$8.68) per month,~~

35 Gallon Cart: \$14.72 per month

65 Gallon Cart: \$16.22 per month

95 Gallon Cart: \$17.72 per month

If only one (1) dwelling unit receives water and sewer services under that account, only one monthly waste management utility fee shall be imposed. If more than one (1) dwelling unit is serviced under that account, then a separate monthly waste management utility fee shall be imposed for each serviced dwelling unit.

### **Sec. 14-127. - Other city fees.**

- (a) If, pursuant to section 14-126, a charge is imposed against a person who has a city water and sewer utility account, the person shall pay a monthly waste management utility fee for each unit served under that account. In order to accommodate special circumstances involving townhouses and condominiums, the public works director may allow an entity to pay as many monthly waste management utility fees each month as there are units in the condominium or townhouse complex.
- (b) The waste management utility shall charge the following fees for disposing of waste delivered to it at its landfill:
  - (1) Municipal solid waste, per ton ..... \$40.00  
Minimum charge ..... \$10.00
  - (2) Inert waste, per ton ..... \$30.00  
Minimum charge ..... \$5.00
  - (3) Lime sludge, per ton .....13.00
  - (4) Water treatment plant lime sludge, per ton .....6.50

- (5) Surcharge for landfill cleanup, per ton, included in the above rates .....0.50
- (6) Tires:
  - Individual automobile tire .....3.00
  - Individual truck tire .....5.00
  - Individual tractor tire .....15.00
  - Individual heavy equipment tire .....25.00
  - For multiple tires, \$200.00 per ton with a minimum rate of \$50.00 required
- (7) Asbestos and contaminated soils: Set by public works director.
- (8) Other: Set by public works director.
- (c) Fees may also be imposed under the authority of section 14-2(e).

**Sec. 14-128. - State fees.**

The waste management utility will follow state law when collecting fees required by state law.

**Sec. 14-129. - Fee billing and collection.**

- (a) The City has the same fee collection rights as a water or sewer utility. City water and sewer utility fees, and state waste fees collected by the City under section 14-128, will be billed with other fees charged by the utility and under the same terms of payment.
- (b) The payment of fees imposed by this chapter and not described in subsection (a), including prepayment, payment security devices like performance bonds, or the extension of credit, will be governed by terms and conditions established by the director of public works. Any such fee is an indebtedness to the City and may be collectable by legal action if delinquent.

**Secs. 14-130—14-150. - Reserved.**

**DIVISION 3. - SERVICES**

**Sec. 14-151. - Collection and disposal services.**

- (a) A person who is not more than thirty (30) days delinquent in the payment of waste management utility fees, under section 14-126 or section 14-127(a) or section 14-128, is

entitled to waste pickup and disposal services from the utility, subject to the following conditions:

- (1) The amount of waste picked up at a dwelling unit must fit within in the cart chosen by the resident. Waste placed outside the cart will not be collected.
  - (2) Prohibited waste defined in section 14-2(d) will not be collected unless special arrangements are made pursuant to section 14-2(e).
  - (3) The waste must be packaged and handled in accordance with section 14-152, or in accordance with special arrangements made pursuant to section 14-2(e).
  - (4) The waste cart must be placed for collection on the street curb or on edge of street pavement. If the director of public works has designated the alley as the waste collection site for a dwelling, the waste cart must be placed for collection within three (3) feet of the alley lot line and where access to it from the alley is not impeded by a fence.
  - (5) The city should collect waste twice per week, subject to disruptions caused by holidays, weather conditions, equipment breakdowns, snow, and other emergencies.
- (b) The failure of the waste management utility to provide services, or the utility's refusal to accept a waiver of services, may be interpreted as a waiver by the utility of its right to collect mandatory fees.
- (c) The waste management utility shall provide the disposal services implied by the fee schedule in section 14-127(b). The waste management utility may provide other collection and disposal services by special arrangement under section 14-2(e).

#### **Sec. 14-152. - Preparing waste for collection.**

- (a) The city waste management utility may refuse to accept waste for disposal if the waste is not treated, prepared, or handled in accordance with the provisions of this section.
- (b) Household waste placed in the waste cart must be inside of a plastic bag capable of containing the weight and volume of waste. Inert waste that cannot fit practically inside of a plastic bag may be paced loosely inside the waste cart.
- (e) Liquid must be drained from the waste.
- (f) Yard waste may be delivered to designated waste management utility yard waste disposal sites.

#### **Sec. 14-153. Waste Carts.**

- (a) One waste cart will be provided by the City of Minot to each dwelling in the waste management utility district. The resident of the dwelling must maintain the cart's cleanliness and serviceability.
- (b) A resident can request additional carts if needed. An additional fee, as outlined in section 14-126, for extra carts will apply.

- (c) City issued carts must be free of snow and ice.
- (d) Automated waste collection carts are not allowed to be placed in metal/wooden racks of any kind
- (e) A resident is responsible for replacing damaged waste collection cart not damaged by the City.
- (f) A resident may not write, paint or mark on city issued waste collection carts.
- (g) Waste collection carts must remain at the property at all times.
- (h) All waste must fit in the cart for collection.

**Sec. 14-154. - Time restrictions on placement of waste for collection; penalty.**

- (a) A person may not place waste for collection by the City pursuant to section 14-151:
  - (1) Before 6:00 p.m. on the day prior to the collection day; or
  - (2) Beyond the waste collection point after the collection crew has begun its collection route on collection day.
  - (3) "Collection day" means the day scheduled by the City for the collection of waste.
- (b) The resident must remove the waste cart from the waste collection point before 10:00 p.m. on the day the container was emptied by the City.
- (c) This section may be enforced by an administrative civil penalty as an alternative to prosecution in municipal court. The civil penalty may equal up to the monthly amount being charged for garbage pickup at the time of the offense. The civil penalty must be added to the utility bill of the penalized person as soon as practicable after the alleged offense occurred. The civil penalty charged to the utility bill must contain a written explanation of the charge and the right to contest the charge.
- (d) A person penalized under subsection (c) may contest the penalty no later than ten (10) days after the due date provided in the billing. To contest the penalty, a person must:
  - (1) Notify the department of public works in writing stating the basis for the contest; and
  - (2) May provide evidence supporting the claim.

Upon receipt of the notice, the director of public works shall assign an employee of the department to investigate the validity of the imposed penalty. The investigating employee must be an employee other than, and superior in rank to, the department employee who initiated the civil penalty proceedings.

- (e) If the contestant is unsatisfied following the internal review provided for in subsection (d), the contestant has the right to a hearing before the City Council. The request for an appeal must be in writing and must be accompanied by any evidence the contestant wishes to be considered. The Council shall schedule and conduct an appeals hearing as soon as practicable. The City has the burden of proof at the hearing. In the event the City has photographic or video evidence of the circumstances, the evidence may be admitted at the hearing as *prima facie* evidence of the offense.

## **ARTICLE III. - MULTI-FAMILY RESIDENTIAL DUMPSTERS**

### **Sec. 14-201. - Dumpsters.**

- (a) The owner of each new multi-family residential development, or the owner of an existing multi-family development who seeks to improve the property by at least twenty-five (25) percent of total true and full value, must provide dumpsters for waste.
- (b) The director of public works may make reasonably inspect a property to determine:
  - (1) the number of dumpsters and the number of pickups per week necessary to provide the minimum level of service required for the removal of waste from multi-family residential developments; and
  - (2) to determine the rate to be charged for the service.
- (c) The director of public works may charge an overflow surcharge fee to be applied to the customer's monthly water bill when waste overflow occurs. The public works director shall determine the amount of the surcharge.

### **Sec. 14-202. - Location.**

All dumpsters provided in accordance with subsection 14-201(a) must not be visible from the view of adjacent streets and properties. All dumpster locations must meet the following standards:

- (1) A location must be enclosed with a minimum six-foot high fence which obscures the dumpster and contains windblown litter and trash.
- (2) A location may not be located in a required front yard, and a dumpster location may not be in a street or public right-of-way.
- (3) Dumpsters must be placed on a concrete pad large enough to provide adequate support and drainage.
- (4) A location must be kept in a nuisance free and odor free condition.
- (5) A location must meet setback requirements to be established at the time a building permit is issued.

### **Sec. 14-203. - Specifications.**

All dumpsters provided for developments described in subsection 14-201(a), whether provided by the owner or by the waste hauler, must be constructed of durable rust and corrosion-resistant metal, and be equipped with lids or doors to minimize material and paper from being blown from the dumpsters. Dumpsters must be painted and shall be kept in good repair.

**Sec. 14-204. - Placement of garbage outside dumpsters; violations.**

- (a) It is unlawful for the owner or person in charge or control of a multi-family residential development, whether newly constructed, currently existing or improved, to have waste outside a dumpster. Upon receiving notification of a complaint, the property owner or person in possession or control of the premises has until the same time the following business day, excluding Saturdays, Sundays, and state and federal holidays, to correct the problem. Failure to correct the problem will result in the imposition of fines and fees. Fines and fees for violations are as follows:
  - (1) First offense, fifty-dollar (\$50.00) fee plus cost of disposal of the waste.
  - (2) Second offense within a one-year period, one hundred-dollars (\$100.00) fee plus cost of disposal of the waste.
  - (3) Third and subsequent offenses within a one-year period, two hundred-dollar (\$200.00) fee plus cost of disposal of the waste. An owner not otherwise subject to section 14-202 shall locate dumpsters to the rear of the building, or enclose the dumpster, unless doing so would relieve an owner or person in charge from the provisions of this section.
- (b) A separate offense is committed every day a violation is present.

**Sec. 14-205. - Unlawful disposal.**

It is unlawful for a person to dispose of waste into dumpsters at locations not located on property they own, lease, or rent. A violation of this section is punishable under section 1-8 of this Code.

§2. This Ordinance shall become effective upon final passage and approval.

PASSED FIRST READING: \_\_\_\_\_

PASSED SECOND READING: \_\_\_\_\_

ATTEST:

APPROVED:

\_\_\_\_\_  
Kelly Matalka, City Clerk

\_\_\_\_\_  
Chuck Barney, Mayor