

ORDINANCE NO. 1496

AN ORDINANCE TO AMEND AND RE-ENACT CHAPTER 16
OF THE CITY CODE OF THE CITY OF JAMESTOWN, NORTH DAKOTA,
PERTAINING TO SOLID WASTE MANAGEMENT

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JAMESTOWN, NORTH DAKOTA, that Chapter 16 of the Code of the City of Jamestown, North Dakota, is hereby amended and re-enacted to read as follows:

CHAPTER 16 - SOLID WASTE MANAGEMENT
ARTICLE I. - IN GENERAL

Sec. 16-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Ashes. Residue from the burning of wood, coal, coke, or other combustible materials for the purpose of heating, cooking, or disposing of waste and combustible materials.

Collection. The act of removing, transporting and disposing of solid wastes from the central storage point of the primary source, commercial or residential containers.

Communal system for the collection of waste. Shall mean an arrangement or the collection of waste from multiple properties or residences using collection containers shared by those properties or residences.

Construction and demolition waste. Building materials and rubble resulting from construction, remodeling, repair or demolition operations on houses, commercial buildings, sidewalks, pavements and other structures.

Curb / curbside/on-site. Shall mean at or near the perimeter of the premises (front, or rear if serviced by an alley), whether or not there is a curb, but does not mean or permit placement on the sidewalk. If the curb and any sidewalk are of unitary construction, the term means on the street-side of the curb so long as such location does not impede bike, pedestrian, or car traffic and is not on an arterial street,

Dumpster. Shall mean a metal or plastic container one (1) cubic yard to eight (8) cubic yards provided by the *City or recycling contractor to a customer and used for the collection of refuse or recyclable material.*

Garbage. Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food, including wastes from markets, storage facilities, handling and sale of produce and other food products.

Hazardous wastes. Any waste or combination of wastes that state or federal law designates as hazardous which pose a substantial present or potential hazard to human health or living organisms because such wastes are non-degradable or persistent in nature or because they can be biologically magnified, or because they can be lethal, or because they may otherwise cause or tend to cause detrimental cumulative effects.

Inert waste. Wood, concrete, metal, bricks, trees, rock, glass, or other construction or demolition waste as directed by the city administrator.

Landfill. Shall mean an area of land or excavation permitted by the State of North Dakota to accept either sanitary waste or inert waste for permanent disposal.

Multi-family customers. Shall mean residential properties for which there is a communal system for the collection of solid waste and there is a single billing for all the residential units.

Person. Any individual, corporation, partnership, firm, association, trust, estates, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative agent or agency of the foregoing.

Poly-cart container. Shall mean a durable plastic wheeled container with a hinged lid, manufactured and used for the collection of refuse, recyclable materials, food store, food scraps, or yard waste. For multi-family or commercial customers, a dumpster or roll-off bin with aggregate volume of multiple poly-carts shall be deemed to constitute one (1) or more poly-carts. The available poly-cart container sizes are as follows:

- (a) *Large capacity poly-cart container(s)* - means a container with a volume capacity of approximately 95 gallons.
- (b) *Medium capacity poly-cart container(s)* - means a container with a volume capacity of approximately 65 gallons.
- (c) *Small capacity poly-cart container(s)* - means a container with a volume capacity of approximately 35 gallons.

Premises. Any property, piece of land or real estate or building.

Putrescible waste. Solid waste capable of being decomposed with sufficient rapidity as to cause nuisances from offensive odors or produce fly-breeding conditions.

Qualified recycling facility. Shall mean a facility that arranges for or causes the recovery of useful materials from one (1) or more specified recyclable materials including items for reuse, and shall be deemed to include only a facility that meets any federal or state standards that may be established to regulate or designate such recycling facilities.

Recyclable cardboard. Shall mean corrugated cardboard, and shall include, but not be limited to, materials used in packaging or storing containers that consist of three (3) or more layers of Kraft paper material, at least one (1) of which is rippled or corrugated. Cardboard shall be considered recyclable cardboard regardless of whether it has glue, staples or tape affixed, but not if it is attached to other packing material or a non-paper liner, waxed cardboard or cardboard contaminated with oil, paint, blood or other organic material.

Recyclable material. Any material designated by the city administrator for removal from the solid waste stream for special collection and disposition pursuant to section 16-30.

Recycling. Shall mean the process of recovering useful materials from solid waste, including items for reuse.

Recycling contractor. Shall mean a person or entity providing recyclable collection services within the City and under written contract with the same.

Refuse container. Shall mean a poly-cart of variable volume capacities, as defined in this Chapter, a dumpster or a roll-off bin, provided by the City or recycling contractor to a customer and used for the collection of refuse or recyclable material.

Roll-off bin. Shall mean an open-top metal container used to collect refuse or recycling that is eight (8) cubic yards or greater.

Rubbish. Nonputrescible solid wastes (excluding ashes) consisting of both combustible and noncombustible wastes such as paper, cardboard, tin cans, wood, glass, bedding, crockery and similar materials.

Scavenging. Uncontrolled removal of solid waste materials from any disposal operation site, storage area, or collection point.

Solid wastes. All garbage, refuse, rubbish, and trash generated by residences, apartments, rooming and boarding houses, motels, hotels, restaurants and retail business and all other solid wastes and solid discarded materials, including solid waste materials resulting from industrial and commercial operations. The term also includes nonhazardous industrial waste generated from industrial and manufacturing processes, sludge's generated by water treatment plants, and construction and demolition waste.

Storage. The interim containment of solid waste in an approved manner after generation and prior to ultimate disposal.

Yard waste. All weeds, grass, lawn clippings, leaves, vegetable waste and similar organic material gathered from lawns and gardens which is suitable for composting. Does not include trees and branches.

Sec. 16-2. Depositing waste, etc., in street, etc., or uncovered receptacle; duty to clean.

(a) It is unlawful for any person to throw, drop, cast, or deposit upon any street, alley, sidewalk, or any yard or premises, public or private, any filth of any kind, or cans, paper, trash, paper containers, solid waste, yard waste, bottles, or any other form of litter or waste matter.

(b) The owner or occupant of any store or other place of business situated within the city shall exercise reasonable diligence at all times to keep the premises clean of wastepaper, wrapping paper, paper napkins, cartons, package containers, and other used or waste materials thrown or left on said premises by its customers, and shall take reasonable measures to prevent waste from drifting or blowing to adjoining premises. Receptacles of sufficient size and number must be placed on the premises accessible to the customers of such business for the disposal of the above referred to articles of waste.

(c) It is unlawful for any person going upon the premises of another to in any manner dispose of wastepaper, wrapping paper, paper napkins, cartons, package containers, and other used or waste materials except in receptacles provided for such purposes.

(d) No person shall use the disposal container of another to dispose of solid waste without the consent of the owner of the container.

Sec. 16-3. Duty to remove solid waste to city sanitary landfill or alternate collection point.

It shall be the duty of every resident, householder, tenant, hotel keeper, restaurant keeper, boarding house keeper, retail or wholesale dealer, and all other persons having or accumulating solid wastes within the city to remove the same to the city sanitary landfill or alternate collection point as prescribed by this chapter. No solid waste of any description whatever shall be buried upon any premises within the city.

Sec. 16-4. Hauling restrictions.

A person may not haul or transport garbage, rubbish, or solid waste to the city's disposal grounds except in a vehicle which does not permit any garbage, rubbish, or solid waste to seep, spill, leak, blow, drop off, or fall to the streets, roads, or highways leading to such disposal grounds.

The grounds for disposal of solid waste shall be determined by the city council. Such grounds must be operated as a sanitary landfill and meet the requirements as set forth by the state health department for landfill disposal purposes.

It is unlawful for any person to scavenge, rummage, move, remove, sort, or handle solid waste material at the city disposal grounds (other than an employee of the city engaged to work there), and no person may enter upon or in said ground or deposit solid waste therein except during permitted hours as posted and in the manner and at the places as directed and designated, unless under written permit of the city administrator. No hazardous wastes may be disposed of at the landfill site except in amounts normal in household waste unless approved by the city administrator. The use of such ground is permitted under such rules and regulations as adopted by the city.

Sec. 16-5. Refuse Containers.

(a) Every person in the city and every owner or occupant of any dwelling, commercial establishment, or building where animal or vegetable food is prepared or served shall be provided a city owned poly-cart or dumpster container(s) for garbage. Such containers shall be city-owned poly-carts of approximately 35

(small), 65 (medium) or 95 (large) gallons with a tightfitting lid, or a dumpster permanently mounted on wheels designed for and capable of being emptied by hydraulic or electrical equipment mounted on a garbage truck. There shall be located at each dwelling, commercial establishment, or building an adequate number of such containers to provide storage for normal waste produced. All solid wastes shall be placed in containers provided.

(b) Refuse containers must be constructed of durable rust and corrosion resistant metal, be equipped with tight fitting lids or doors to prevent entrance of insects or rodents, and must be watertight, leak-proof, and weatherproof.

(c) Refuse containers and other permitted containers must be maintained in as sanitary condition as possible in view of the use to which it is put, and must be thoroughly cleansed as needed by washing, scalding, or otherwise by the person or entity utilizing said equipment. Dumpster containers must be kept in good repair. Those commercial establishments, multiple dwelling and other entities who own their own dumpster containers as of the date of the adoption of the amendment to this ordinance shall be allowed to continue to use such containers so long as they comply with the provisions of this ordinance. Thereafter, all containers utilized for commercial waste shall be provided by the City of Jamestown and shall be repaired by the city.

(d) Refuse containers must be kept tightly closed during the collection or deposit of garbage, trash, or solid waste. The contents of all receptacles must be so protected that the wind cannot blow out and scatter the same over the streets, alleys, and land within the city.

(e) Except in the case of containers provided by the city which shall be the responsibility of the city, it is the duty of any person in control of any premises to replace any container which is damaged or deteriorated and may cause injury to collection personnel or create a health problem within five (5) days after receipt of a notice of violation.

(f) Container(s) should be stored to minimize corrosion, to prevent breeding of insects, and prevent rodent harborage. Pursuant to [section 16-6](#), all containers must be moved to a collection point on the day of collection.

(g) Commercial establishments storing paper, boxes, and other nonputrescible garbage outside their place of business shall store same in a completely enclosed area constructed in a manner to prevent littering.

Sec. 16-6. Collection regulations.

(a) All solid wastes must be collected, conveyed, and disposed of by the city under the supervision of the city administrator, except as otherwise provided in this chapter. The city administrator has authority to make regulations concerning the days of collection, type, and location of waste containers and such other matters pertaining to the collection, conveyance, and disposal as necessary, and to change and modify the same, and shall give notice thereof by public notice in the official newspaper. Any person aggrieved by a regulation of the city administrator has the right of appeal to the city council which shall confirm, modify, or revoke such regulation following notice to the aggrieved party and a hearing.

(b) The city administrator has authority to make such reasonable regulations concerning individual collection, transportation and hauling, and disposal of solid waste as deemed necessary, which regulations shall become effective when notice thereof has been given by publication in the official newspaper.

(c) A person may not place any solid waste in any street, alley, or other public place, or upon any private property within the city except in proper containers or for collection and removal.

(d) Any unauthorized accumulation of garbage or solid waste on any premises is hereby declared to be a nuisance and is prohibited, except as provided in paragraph (l) of this section.

(e) Any approved waste container, together with solid waste, must be within six (6) feet of an alley accessible to the property. Where no alleys are available, all waste containers must be as accessible as possible and within three (3) feet of the curb. The city administrator may allow a greater distance as conditions require. Waste containers not placed in alleys should be placed out for collection by 7:00 a.m. the day of collection but not before the evening before the day of collection.

(f) Residential and commercial collections shall be made as often as is necessary to maintain and preserve the health of the community. When streets or alleys are in a temporary condition to make collection impossible, such failure does not relieve the occupant of payment of charges for solid waste collection.

(g) All solid waste of each residence or place of business shall be placed in an approved refuse container and be collected during the regular collection times for the standard charge. The city administrator has the authority to refuse to collect any amounts not placed in an approved refuse container.

(h) The driver and operator or operators of any truck engaged in the collection and removal of solid waste by the city may refuse to collect and remove the same if it does not substantially meet the requirements of this chapter.

(i) Ownership of solid wastes set out for collection or deposited at any city disposal grounds or facility is vested in the city. It is unlawful for any person other than the owner or other authorized person to remove any refuse material from the solid waste container, storage area, or collection point of another or from any city disposal grounds or facility.

(j) A person may not burn or cause to be burned any paper, garbage, excelsior, straw, hay, leaves, brush, weeds, dry grass, shavings, rags, barrels, boxes, crates, lumber or other combustible materials or solid waste material in the street, or alleys or on private property within the city, except in an incinerator approved by the state health department.

(k) Commercial dumpster containers may be placed on public right-of-way used as an alley when it is impractical or impossible to store the container entirely on private property. Those containers placed on public right-of-way may not project more than five (5) feet into the alley. The alley must have an unobstructed opening of at least fifteen (15) feet.

(l) A person may compost grass or leaves collected on the property provided the composting site is operated in a safe and healthful manner and does not create a nuisance. Composting facilities should be approved by the fire and inspections departments.

(m) All wet solid waste shall have the liquid drained off and shall be wrapped in paper or other absorbent material before it is placed in the waste receptacle, thus preventing odors and the breeding of flies in summer and freezing and adhesion to the receptacle in winter.

(n) The city administrator shall designate collection points within the city and provide the necessary containers for yard wastes. No person shall deposit any solid waste in the city yard waste collection other than yard waste. Large volume producers of yard wastes shall dispose of yard wastes as directed by the city administrator.

(o) No person shall place, deposit, or dump any material in a recycling container other than what is indicated as allowable on the container. A recycling container may include any public or private container, dumpster, or receptacle that is clearly signed as being for the deposit of particular materials.

Sec. 16-7. Disposal of refuse solid waste by private persons.

Any person, other than those regulated by sections [16-12](#) to [16-22](#), may haul his own solid wastes to the proper city disposal grounds or facility provided that he shall comply with the regulations of the city council in relation to such grounds or facilities. Any person so hauling solid wastes shall nevertheless be obligated to the city for any charges levied by the city for solid waste disposal.

Any solid wastes hauled pursuant to this section must be hauled in a manner that all materials are covered or otherwise secured to prevent loss of materials in transport.

Sec. 16-7.1. Penalties.

(a) Upon conviction, any person or entity negligently or willfully violating any provision of this chapter shall be subject to the following:

(1) For the first violation of any provision of this chapter, said person or entity shall be punished by a fine not to exceed one thousand dollars (\$1,000.00).

(2) For the second and any subsequent violation of any provision of this chapter, any such person or entity shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment not to exceed thirty (30) days or both such fine and imprisonment for each such offense.

(b) The provisions of the Code of the City of Jamestown found in [section 22-52](#), "Basis of liability for offenses," [section 22-52.1](#), "Requirements of culpability," [section 22-52.2](#), "Mistake of fact and affirmative defenses," and [section 22-52.3](#), "Causal relationship between conduct and result," shall be applicable to all offenses under this chapter and are incorporated herein by reference.

ARTICLE II. - CITY SOLID WASTE DISPOSAL SYSTEM

Sec. 16-8. Operation as public utility; use required of all property owners.

The city solid waste disposal system shall be operated as a public utility of the city.

Except as provided for in sections [16-7](#) and [16-22](#), all persons owning or occupying single family residences, condominiums, townhouses, mobile home courts, or multiple family dwellings, commercial and not for profit entities, shall be required, to use and patronize the City of Jamestown's municipal solid waste disposal system exclusive of any other method, manner or location, of disposal of solid waste, as defined by law, the provisions of this Code and the other ordinances of this city, to comply with and conform to any and all provisions of this Code and other ordinances of the city with reference to disposal of solid waste, and to pay to the city the service costs, fees, and charges established in connection therewith; and all solid waste within the city is hereby required to be disposed of in full compliance with the provisions of this article.

Sec. 16-9. Rates and charges.

The rates and charges for services of the city solid waste disposal system shall, from time to time, be established by resolution of the city council.

Sec. 16-10. Bills and penalties for solid waste charges.

Billings for solid waste disposal charges shall be made monthly by the city auditor upon the same form and in conjunction with water and sewer charges. There may be added to each monthly bill a penalty of one (1) percent per month on the fifteenth day of each month that same remains unpaid or such additional penalty as may be determined, from time to time, by resolution of the city council.

If the established service charges are not paid when due, the same may be recovered by the city in an action at law or may be assessed against the premises served and collected and returned in the same manner as other taxes.

Sec. 16-11. Make-up of solid waste disposal system.

There shall be a foreman and such other city employees as deemed necessary to operate and maintain the solid waste disposal system consistent with sound business practice.

ARTICLE III. - COMMERCIAL ESTABLISHMENTS

Sec. 16-12. Disposal of garbage, rubbish, and solid wastes on sanitary landfill required.

It shall be unlawful for any person to haul or remove, or to cause to be hauled or removed, any garbage, rubbish, or other solid waste material from any place within the city to any other place than to the city sanitary landfill or alternate collection point as prescribed by this chapter.

Sec. 16-13. Storage of solid waste.

Each property owner or occupant of any building or premises used for business purposes shall store all solid waste originating on his premises in the manner as provided for in [section 16-5](#). Nothing in this article shall prevent an owner or occupant of any premises used for business purposes from constructing a building or closure for the storage of such solid waste; provided, that such building is of fire resistant material and of rat proof construction, and so constructed and operated as to prevent the storage of such solid waste from becoming a menace to the public's health.

Sec. 16-14—16-21. Reserved.

Sec. 16-22. Owner of commercial establishment may haul own solid waste; regulations applicable to same.

Nothing in this article shall prevent any person or entity from hauling the solid waste originating upon a commercial establishment, multiple dwelling, mobile home court or other facility using a centralized collection facility of his or its own; provided, that such solid waste is transported as provided herein:

(a) Trucks or other vehicles used for the hauling of solid waste shall be so equipped as to prevent leakage or spillage during the collection and or transportation of said material.

(b) The equipment shall be properly maintained and kept sanitary, clean, and neat in appearance.

Sec. 16-23. Effective date.

This chapter shall take effect and be implemented on August 1, 2017.

ARTICLE IV. – RECYCLING

Sec. 16-24. Authority.

It shall be the general responsibility of the City Administrator or his designee to enforce the provisions of this Article.

Sec. 16-25. Scope.

This Article applies to all residential properties within the city.

Sec. 16-26. Services.

The city or its contractor shall provide curbside collection of acceptable recyclable materials for all residential properties in the City. Effective July 31, 2017, collection shall be done biweekly (every other week) on the same day and route that municipal waste is collected.

Sec. 16-27. Containers.

The City's contractor shall provide all poly-carts/containers to residential units and multi-family residential sites. Minimum approximate equivalent for poly-carts shall be approximately 65 or 95 gallons. Items which cannot be placed inside the containers will be accepted at the drop-off site.

Sec. 16-28. Recycle Drop-off area.

The City's contractor shall provide a facility, within the city, for the collection and storage of recyclable materials.

Sec. 16-29. Residential points of collection.

Recycling collection residential service shall require all recycling carts/containers to be placed at the same location as that of the resident's solid waste collection site. The contractor shall make other arrangements for multi-family dwellings for the location of carts or dumpsters at the discretion of the contractor and multi-family unit owner.

Sec. 16-30. Recyclable items.

Single Stream Recycling items which may be placed in the recycling containers for collection include, but are not limited to, the following:

- OCC- Old Corrugated Containers/Cardboard/Egg Cartons
- Pop and Beer Boxes
- Brown Paper
- ONP- Old Newspaper and inserts
- Mixed Paper
- SOP – Sorted Office Paper/White or Colored
- Copy and Computer Paper
- School Paper, Office Paper and File Folders
- Multi 3-Ply Paper, Envelopes and Color Inserts
- Shredded Paper
- Junk Mail
- Paperboard Boxes (cereal, pasta, tissue, etc.)

Magazine, Catalogs and Brochures
Soft Cover Books/Telephone Books
#1 Plastic bottles – PET (green and clear)
#2 Natural High Density Polyethylene's – NHDPE
#2 White Plastic – Milk Containers
#2 Colored High Density Polyethylene – CHDPE (detergent, coffee containers, etc.)
#3-7 Other Mixed Plastics
White Plastic Bags
Aluminum Cans and Foil
Empty Aerosol Cans
Aluminum Pots and Pans
Steel Cans (Tin)
Ferrous Metal

Contractor shall collect the following additional material at its drop off facility:

Clear, Brown, Green, and Blue Glass
Clothing and Shoes (clean/wearable)
Hard Cover Books
Ferrous Metal to include appliances except refrigerators and freezers

Sec. 16-31. Prohibited Items.

The following materials are considered Not Acceptable:

- (a) No garbage, putrescible waste or inert waste except as allowed by Sec. 17-8
- (b) No plastic bags/film, plastic grocery type bags, or stretch wrap
- (c) No food waste
- (d) No foam packaging or Styrofoam
- (e) No ceramics, window glass, mirrors, light bulbs, dishes, Pyrex
- (f) No recyclables containing food waste, paint, oils, blood
- (g) No hazardous materials or universal wastes

Sec. 16-32. Disposal of non-recyclable material in recycling container.

- (a) Ownership of recycling materials set out for collection or deposited in any recycling disposal grounds or facility is vested in the city's contractor for recycling. It is unlawful for any person other than the owner or other authorized person to remove any refuse material from the recycling container, storage area, or collection point of another or from any recycling disposal grounds or facility.
- (b) The driver and operator or operators of any truck engaged in the collection and removal of recycling materials within the city, by the city's contractor, is authorized to refuse to collect and remove the same if it does not substantially meet the requirements of this chapter.
- (c) In minimizing the rate of unauthorized materials placed into recycling bins, contractor shall first and foremost provide extensive education and customer service, to include items addressed in Sections 16-30 and 16-31. Contractor shall train its drivers to watch for and record waste that is placed in the containers and immediately advise residents of material that does not belong. Contractor should refuse to pick-up any non-recyclable material. Contractor shall use enforcement measures as a last resort. These enforcement measures are:
 - (1) First Recorded Activity – Contractor shall place a red contamination sticker over the lid of the bin advising that the Contractor has identified wrong material/s in the recycling bin. The Contractor also records the event. The Contractor shall then send a letter to the address along with an informational brochure which outlines what can and cannot go in the bin.
 - (2) Second Recorded Activity - where a second contamination event is recorded by the Contractor, Contractor shall send a subsequent letter to the resident, outlining their previous contamination event.

- (3) Third Recorded Activity – where the Contractor records a third event, Contractor shall send a final warning letter. This letter outlines that this is their last warning before bin removal.
- (4) Fourth Recorded Activity – Contractor shall remove the household's bin. Contractor shall send a letter and a pledge to the resident. Bins are removed for a minimum of two weeks, in order for the bin to be reinstated, the resident must sign the pledge agreeing not to contaminate their bin.
- (5) Fifth or more Recorded Activity - At the Contractor's discretion, Contractor may remove bins for a longer period of time or on a permanent basis.

Contractor may also request the City to levy a fee at City Council's discretion, which will not be unreasonably withheld. Upon notification to the resident and the City, City shall place such fees on its billing.

ATTEST:

Jeff Fuchs
City Administrator

APPROVED:

Katie Andersen
Mayor

Introduced by Council Member Brubakken
Seconded by Council Member Buchanan
First Reading: June 5, 2017
Second Reading: July 5, 2017
Final Passage: July 5, 2017

Roll Call No. 5 showed: 5 ayes, 0 nays, 0 absent.