

AMENDED ORDINANCE NO. 2021-09-13

AN ORDINANCE OF MINIDOKA COUNTY ESTABLISHING A SOLID WASTE DISPOSAL SYSTEM AND PROVIDING FOR: (1) STATEMENT OF PURPOSE; (2) DEFINITIONS; (3) REGULATION OF PLACES FOR DISPOSAL; (4) REGULAR HOURS FOR DISPOSAL; (5) PROHIBITING DISCHARGE OF CERTAIN MATERIALS; (6) TESTING; (7) METHOD OF DISPOSAL; (8) REGULATING TRANSPORTATION OF SOLID WASTE; (9) ESTABLISHING USER FEES; (10) COLLECTION OF FEES; (11) DELINQUENCY CHARGES; (12) RELIEF FROM FEES; (13) APPEAL PROCESS; (14) HARDSHIP EXEMPTION; (15) UNOCCUPIED BUILDING EXEMPTION; (16) PENALTIES FOR VIOLATION; (17) SEVERABILITY AND REPEAL OF AMENDED ORDINANCE 2016-10-03; (18) PUBLICATION AND AN EFFECTIVE DATE.

Be it ordained by the board of County Commissioners of Minidoka County, Idaho:

SECTION 1. PURPOSE: This Ordinance is established pursuant to Idaho Code Title 31, Chapter 44, to establish a Solid Waste Disposal System in Minidoka County, Idaho, for the purpose of reducing the threat to health posed by uncollected garbage, refuse, and scrap; for the purpose of maintaining the natural and aesthetic setting of the land, water and air resources of Minidoka County, Idaho; for the purpose of promoting the cultural, social, economic, and sanitary needs of the citizens of Minidoka County as may be necessary from time to time in establishing a solid waste disposal system; in fulfilling the duty of the Board of County Commissioners, pursuant to Idaho Code Section 31-4403, in maintaining and operating sites and facilities for the management of solid waste; and for providing an adequate means to fund said operations.

SECTION 2. DEFINITONS: As used in this Ordinance, the following words and phrases will have the following meanings unless the context clearly indicates a different meaning:

(a) County: The County of Minidoka, a political subdivision in the State of Idaho.

(b) Person: Any person, firm, corporation, association, municipality, public utility, or other such entity, as is recognized by the State of Idaho.

(c) Landfill: Any sanitary landfill constructed by the County, dedicated to the County; or leased, operated or maintained by the County, or in conjunction with other counties as from time to time designated by the Board of Commissioners.

(d) Solid Waste: All solid material that is useless, unwanted, discarded, or otherwise considered as waste by the person in possession of it.

(e) Hazardous Waste: Solid waste which is subject to regulation as hazardous waste by the Environmental Protection Agency, and as defined in Title 40, Code of Federal Regulations Section 261.

(f) Solid Waste Disposal System: Lands, sites, facilities, equipment, personnel, and administration necessary for the disposal of solid waste.

(g) Residential/Domestic User: Any person who is the owner of an identifiable dwelling located on private property, as defined by the records of the Minidoka County Assessor, which has been identified by such records in the following residential classifications:

Category 31 – Improvements – Residential improvements located on category 10.

Category 34 – Improvements – Residential in nature, located on Category 12.

Category 37 – Improvements – Residential in nature, located on Category 15.

Category 41 – Improvements – Residential in nature, located on Category 20.

Category 46 – Manufactured Housing – Structures transportable in one or more sections, built on a permanent chassis, for use with or without a permanent foundation.

Category 48 – Manufactured Housing – Manufactured housing on which a statement of intent to declare as real property has been filed.

A person shall be considered a separate “domestic user” for each individual dwelling on property owned or occupied by such person. Each individual living unit of multi-family buildings, apartments, duplexes, etc., shall be considered a separate “domestic user”.

(h) Commercial User – A person who is the owner of a parcel, a building or an identifiable business or enterprise located on the parcel which is used for commercial purposes, as determined by the records of the Minidoka County Assessor, and which is identified by such records in the following classifications:

Category 35 – Improvements – Commercial in nature, located on Category 13.

Category 38 – Improvements – Commercial in nature, located on Category 16.

Category 40 – Improvements – Commercial in nature, located on Category 18.

Category 42 – Improvements - Commercial in nature, located on Category 21.

Category 60 – Improvements on Railroad Rights-of-Way – Improvements located on railroad rights-of-way under separate ownership.

Category 61 – Improvements by Lessee Other Than Category 62 – Improvements made by the tenant or lessee to landlord’s property.

Category 62 – Improvements on Exempt or Public Land – Taxable improvements which are owned separately from exempt or public land on which they are located.

A person shall be considered a separate “commercial user” for each individual property or building owned or operated by such person. Any of the above Categories which are directly used in a farming operation shall be excluded from the definition of “commercial user.”

(i) Tax Exempt User – A person who is the owner of a parcel of property as determined by the records of the Minidoka County Assessor and which is identified by such records in classification Category 81 – Exempt Properties, and which has located upon such property an occupied building. For the purpose of this Ordinance, an occupied building shall include schools, churches, government buildings, and other buildings that are in actual use during any part of the

year. A person shall be considered a separate “tax exempt user” for each individual property or individual building on each property owned by such person.

(j) Heavy User – A person who is the owner of a parcel, a building or an identifiable business or enterprise located on the parcel which is used for commercial purposes and is used as a hotel, motel, large retail, grocery or wholesale enterprise as determined by the records of the Minidoka County Assessor, and which is identified by such records in the following classifications:

Category 21 – Improvements – Commercial in nature, located on Category 42.

Category 35 – Improvements – Commercial in nature, located on Category 13.

Category 38 – Improvements – Commercial in nature, located on Category 16.

(k) Industrial User – A person who is the owner of a parcel, a building or identifiable business or enterprise located on the parcel which is used for industrial purposes (manufacturing, processing, assembling, packaging and storing) as determined by the records of the Minidoka County Assessor, and which is identified by such records in the following classifications:

Category 36 – Improvements – Industrial in nature, located on Category 14.

Category 39 – Improvements – Industrial in nature, located on Category 17.

Category 43 – Improvements – Industrial in nature, located on Category 22.

(l) Utility User – Any company or corporation operating in the State of Idaho under the jurisdiction of the Idaho Public Utilities Commission and defined by the Idaho State Tax Commission as “Operating Property” as determined by the records of the Minidoka County Assessor and which is identified by such records in classification Category 67 – Operating Property. One Utility User Unit will be applied to each parcel of land that has occupied buildings that generate solid waste as herein defined in this Ordinance.

(m) Non-conforming user - A person who is the owner of a parcel, a building or dwelling which has multiple solid waste users as herein defined in this Ordinance. When the Minidoka County Assessor, after a physical inspection of the property, determines different solid waste users occupy the same space, the Minidoka County Assessor shall determine the appropriate fee (residential, commercial, exempt, etc.) to be assessed to the owner.

SECTION 3. DISPOSAL OF WASTE AT PLACES OTHER THAN WASTE

DISPOSAL SYSTEM SITES PROHIBITED: It shall be unlawful, except at a Solid Waste Disposal Site for any person to throw away, dump, or discard within the county any type or nature of solid waste on any public lands, right-of way of any kind, or private land of another. In addition to the criminal penalties for violation of this section, civil damages in an amount of three times the actual damages shall be imposed on any person committing any such act, to be used to restore the dump site to its previous condition. Such civil action shall be brought in Minidoka County and for the benefit of the County for violations occurring within the county, and any remainder of damages collected after restoration of the site, shall be used for the maintenance and operation of the Minidoka County Solid Waste Disposal System and enforcement of this Ordinance.

SECTION 4. DISPOSAL ONLY DURING REGULAR HOURS OF OPERATION:

No person shall deposit or discharge any of the following substances into or upon any landfill, or the premises in any landfill as defined above, at a time other than the regular hours and days in which such landfill is open to public dumping.

SECTION 5. PROHIBITED DISCHARGES OR DEPOSITS: No person shall deposit or discharge any of the following substances into or upon any landfill in Minidoka County:

- (a) Asbestos.
- (b) Hazardous waste.
- (c) Flammable or explosive liquids, solids or gases.
- (d) Radioactive materials.
- (e) Vehicle chassis or frames.

(f) Any other substance or material which, in the opinion of the landfill operator, is unsuitable for discharge or deposit at the landfill because of actual or potential threat to the health or safety of the landfill operator or other persons using or associated with the landfill.

SECTION 6. EXAMINATION OR TESTING REQUIRED: It shall be the responsibility of any person discharging or depositing materials at a landfill to insure that materials deposited therein do not contain any of the foregoing prohibited substances. The landfill operator may refuse to accept for disposal or discharge any materials which, in his opinion, may contain any of the substances set forth in Section 5 until such time as the person desiring to discharge such materials has demonstrated to the satisfaction of the operator that said materials do not contain any prohibited substances. The cost for any necessary examination or testing of materials shall be at the sole cost and expense of any person desiring to discharge or deposit said materials at the landfill.

SECTION 7. METHOD OF DISPOSAL: Every person discharging materials at a landfill shall do so in a manner as directed by the landfill operator. Any person depositing materials shall personally contact the landfill operator to obtain directions for disposal of such material prior to the discharge or deposit of said material at the landfill.

SECTION 8. TRANSPORTATION OF SOLID WASTE: It shall be unlawful for any person to transport any solid waste in Minidoka County without said waste being tarped, or

otherwise sufficiently covered or secured to prevent the inadvertent or accidental dumping, spillage, or discard of such solid waste.

SECTION 9. USER FEE ESTABLISHED: To fund a portion of the operations of the Minidoka County Solid Waste Disposal System, the Board of County Commissioners of Minidoka County, Idaho does hereby, pursuant to Idaho Code Section 31-4404, establish a user's fee within Minidoka County, Idaho, to be charged upon each solid waste user (as defined above) for use of the Minidoka County Solid Waste Disposal Facilities. Such fees are as follows:

(a) One Hundred Five and 00/100 Dollars (\$105.00) ~~Eighty Seven and 50/100 Dollars (\$87.50)~~ per year per residential/domestic user.

(b) Five Hundred Fifty and 00/100 Dollars (\$550.00) ~~One Hundred Ten and 00/100 Dollars (\$110.00)~~ per year per commercial user.

(c) Five Hundred Fifty and 00/100 Dollars (\$550.00) ~~Two Hundred and 00/100 Dollars (\$200.00)~~ per year per heavy user., ~~except hotels/motels will be charged as follows: up to 50 rooms one (1) unit, 51 to 125 rooms two (2) units, 126 or more rooms three (3) units.~~

(d) Five Hundred Fifty and 00/100 Dollars (\$550.00) ~~Two Hundred and 00/100 Dollars (\$200.00)~~ per year per industrial user.

(e) Five Hundred Fifty and 00/100 Dollars (\$550.00) ~~One Hundred Ten and 00/100 Dollars (\$110.00)~~ per year per utility user.

(f) One Hundred Five and 00/100 Dollars (\$105.00) ~~Eighty Five and 00/100 Dollars (\$85.00)~~ per year per tax exempt user.

(g) A schedule for gate fees based on materials and volume actually delivered to the landfill will be adopted by Resolution as the Board of Minidoka County Commissioners.

(h) No user fee shall be charged on the Occupancy/Supplemental or Missed Roll.

SECTION 10. COLLECTION OF FEES: Annual user fees as provided in Section 9 of this Ordinance shall be collected in conjunction with annual property taxes by the Minidoka County Treasurer after assessment of said fees by the Minidoka County Assessor through

identification of residential/domestic, commercial, heavy user, industrial, utility and tax exempt users pursuant to this Ordinance. Collection of the per load and per volume charges herein referred to shall be the responsibility of the operator of the Minidoka County Waste Disposal System, and shall be payable by the user at the time of delivery of the solid waste to the landfill, unless billing arrangements have been approved.

SECTION 11. DELINQUENCY CHARGES: All solid waste user fees shall be due and payable in two (2) equal installments. The first installment shall be paid on or before December 20, and the second installment shall be due and payable on or before June 20. Any installment not paid on or before its due date becomes delinquent and shall be subjected to a penalty of two percent (2%), and shall be subjected to interest on the amount of the fee and penalty at the rate of one percent (1%) per month, calculated from January 1 following the year for which the user fee was imposed.

SECTION 13. PROCEDURE ON APPEAL:

(a) Solid Waste Users may file an appeal of the Users Fee with the Board of Minidoka County Commissioners. An appeal shall be made in writing on a form provided by the Clerk of the Board of County Commissioners and must identify the Solid Waste User, the property which is the subject of the appeal and the reason for the appeal.

(b) Within thirty (30) days of the appeal of the user fee, the Board of County Commissioners shall render a decision on said appeal and shall notify the applicant in writing of such decision.

(c) Any decision of the Board of County Commissioners may be appealed to the District Court under the procedures established by the Idaho Administrative Procedures Act.

SECTION 14. HARDSHIP EXEMPTION: Any person who shall establish that payment of the Solid Waste User Fee, provided by this Ordinance, would create an extreme hardship may apply for exemption from said fee, pursuant to the appeal process herein provided. In the event that said hardship is demonstrated, the Board of County Commissioners shall abate such portion of the annual user fee as is necessary to alleviate the hardship imposed by the fee.

SECTION 15. UNOCCUPIED BUILDING EXEMPTION: After a physical inspection of any property with improvements that are subject to the User Fee, established by this Ordinance, and the Minidoka County Assessor finds the improvements are uninhabitable or otherwise do not meet the requirements of this Ordinance to be charged the User Fee, the Minidoka County Assessor may make application to the Board of Minidoka County Commissioners to cancel the fee and remove the fee from that parcel.

SECTION 16. PENALTIES: Any person violating any provision of this Ordinance shall be fined not less than One Hundred and 00/100 Dollars (\$100.00), not more than Three Hundred Dollars (\$300.00) for each offense, and/or incarcerated for up to six (6) months in the county jail for such offense. A separate offense shall be deemed committed on each day during which a violation occurs or continues.

SECTION 17. SEPARABILITY AND REPEALER: The provisions of this Ordinance are separable and the invalidity of any part of this Ordinance shall not affect the validity of the remainder of the Ordinance. Ordinance No. 2016-10-03 is hereby repealed and this Amended Ordinance is substituted therefore.

SECTION 18. EFFECTIVE DATE, PUBLICATION: This Ordinance or a summary thereof in compliance with Idaho Code Section 31-715 (a), shall be published once in the official

newspaper of the County and shall take effect immediately upon its passage, approval and publication.

PASSED BY THE BOARD OF COUNTY COMMISSIONERS OF MINIDOKA COUNTY:

DATED this _____ day of _____ 2021.

Kent McClellan
Minidoka County Chairman

Wayne A. Schenk
Minidoka Commissioner

Jared Orton
Minidoka County Commissioner

ATTEST:

Tonya Page

Minidoka County Clerk

NOTICE OF ADOPTION
Minidoka County Ordinance 2021-09-13

The County of Minidoka, Idaho, hereby gives notice of the adoption of the Minidoka County Ordinance No. 2021-09-13, an ordinance amendment of the original ordinance of Minidoka County Establishing a Solid Waste Disposal System and providing for: (1) Statement of Purpose; (2) Definitions; (3) Regulation of Places for Disposal; (4) Regular Hours for Disposal; (5) Prohibiting Discharge of Certain Materials; (6) Testing; (7) Method of Disposal; (8) Regulating Transportation of Solid Waste; (9) Establishing User Fees; (10) Collection of Fees; (11) Delinquency Charges; (12) Relief From Fees; (13) Appeal Process; (14) Hardship Exemption; (15) Unoccupied Building Exemption; (16) Penalties For Violation; (17) Severability and Repeal of Ordinance 2016-10-03; (18) Publication and an Effective Date. In summary, the Board of County Commissioners increased the solid waste residential fee from \$85.00 to \$87.50 per household, annually. Providing that Minidoka County Ordinance 2016-10-03 is not repealed until amended except to the extent it is inconsistent with this ordinance; and providing that said ordinance shall be effective upon this publication. The full text of the summarized Ordinance No. 2021-9-13 is available at the Minidoka County Courthouse, 715 G St., Rupert, Idaho 83350 in the office of the County Clerk between the hours of 8:30 AM and 5:00 PM.

Tonya Page, Minidoka County Clerk
Publish September 22, 2021