

## ORDINANCE NO. 13,616

AN ORDINANCE to amend the Municipal Code of Des Moines, 1991, adopted by Ordinance No. 11,651, passed April 15, 1991, and amended by Ordinance No. 11,717, passed September 16, 1991, and amended by Ordinance No. 11,845, passed June 22, 1992, and amended by Ordinance No. 13,349, passed June 17, 1996 by repealing Sections 21-21, 21-22, 21-23, 21-24, 21-25, 21-26, 21-27, 21-28, 21-29, 21-30, 21-31, 21-32 and 21-33 of Subchapter 3 of Chapter 21, thereof and enacting new Sections 21-21, 21-22, 21-23, 21-24, 21-26, 21-27, 21-28, 21-29, 21-30, 21-31, 21-32 and 21-33 of Subchapter 3 of Chapter 21, all relating to waste haulers.

Be It Ordained by the City Council of the City of Des Moines,

Iowa:

Section 1. That the Municipal Code of Des Moines, 1991, adopted by Ordinance No. 11,651, passed April 15, 1991, and amended by Ordinance No. 11,717, passed September 16, 1991, and amended by Ordinance No. 11,845, passed June 22, 1992, and amended by Ordinance No. 13,349, passed June 17, 1996 by repealing Sections 21-21, 21-22, 21-23, 21-24, 21-25, 21-26, 21-27, 21-28, 21-29, 21-30, 21-31, 21-32 and 21-33 of Subchapter 3 of Chapter 21, thereof and enacting new Sections 21-21, 21-22, 21-23, 21-24, 21-26, 21-27, 21-28, 21-29, 21-30, 21-31, 21-32 and 21-33 of Subchapter 3 of Chapter 21, all relating to waste haulers, as follows:

### **21-21. DEFINITIONS.**

The following terms are used in this subchapter and are defined as follows:

**"Administrator"** means the administrator of the Des Moines Metropolitan WRA Wastewater Reclamation Facility.

**"Industrial Waste"** means the liquid waste from industrial users.

**"Publicly Owned Treatment Works (POTW)"** means a treatment works as defined by Section 212 of the Clean Water Act, and includes any devices and systems used in the storage, treatment, recycling and reclamation of wastewater or industrial waste of a liquid nature or that convey wastewater to the wastewater treatment plant, regardless of ownership. POTW as used in this chapter includes the Des Moines Metropolitan WRA Wastewater Reclamation Facility.

**"Vehicle"** means a device equipped with a tank and used to remove or transport waste.

**"WRA" or "Wastewater Reclamation Authority"** means the Des Moines Metropolitan Wastewater Reclamation Authority consisting of the WRA constituent communities who are by joint government action, as defined in intergovernmental agreements and amendments known as ICA agreements as from time to time amended, are committed to utilize the Wastewater Reclamation Facility and certain out-fall and interceptor sewers of the wastewater treatment system and to support the operating and capital costs thereof through payments to the WRA Operating Agency.

**"WRA Operating Agency"** means the City of Des Moines.

**"Waste"** means human excreta, water, scum, sludge, septage, and food waste grease solids from public and private wastewater disposal systems or holding tanks; impervious vaults, portable, or chemical toilets; and devices used to trap grease resulting from food preparation.

**"Waste Hauler"** means a person or firm engaged in the business of cleaning and disposing of waste from public or private waste facilities, including a person or firm that owns and rents or leases portable toilets.

**"Wastewater"** means a combination of the liquid and water carried waste from residences, commercial buildings, institutions and industrial establishments, together with such groundwater, surface water, and stormwater as may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

**"Wastewater Reclamation Facility" or "WRF,"** means the Des Moines Metropolitan WRA Wastewater Reclamation Facility which is that portion of the POTW designed to provide treatment (including recycling and reclamation) of wastewater and industrial waste.

#### **21-22. LICENSE.**

No waste hauler shall remove waste from within the corporate limits of the city or shall dispose of waste, whether from a source inside or outside the corporate limits of the city, into the Des Moines POTW without first obtaining a waste hauler license from the city, with the following exceptions:

- (1) WRA communities that operate vehicles to remove waste from municipal sewer systems.
- (2) Waste haulers hired by WRA communities to remove waste from municipal sewer systems and which bring no other wastes to the Des Moines POTW.
- (3) Waste haulers utilized by industrial users issued a discharge permit by the Des Moines WRF.
- (4) Waste haulers which do not haul food preparation grease traps or domestic sewage as defined in subchapter 7 of this chapter.
- (5) Waste haulers granted temporary authorization by the administrator in order to deal with an emergency.

#### **21-23. ISSUANCE OF LICENSE.**

The waste hauler's license shall be issued by the administrator upon written application that shall consist of the following minimum requirements:

- (1) Inspection.

The POTW, upon application, shall inspect the trucks, hoses, valves, and associated equipment of the applicant for a waste hauler's license and determine if it meets the minimum qualifications for complying with the conditions of this subchapter. Vehicles with a rated capacity in excess of 2,500 gallons will be approved only upon special authorization of the administrator.

(2) License fee and bond.

An application shall require the payment of a \$60.00 fee for each vehicle used by the applicant and the posting of a bond with reasonable surety in the penal sum of \$10,000 for the faithful compliance with the provisions of this subchapter including prompt payment of fees, fines and damages. WRA constituent communities that contract with waste haulers in order to clean and rehabilitate storm and sanitary sewers owned by the community or that own and operate waste hauling vehicles may provide proof of self insurance or provide a letter guaranteeing payment of up to \$10,000.00 in lieu of providing a surety bond.

(3) Renewal.

Waste hauler licenses shall expire on the 30th day of June next after its issuance. Renewal application must be made in the same manner as initial application and must be received by the administrator 30 days prior to expiration. Failure to apply thirty days prior to expiration may result in an interruption in license and the privileges of such license.

(4) Transferability of License.

Waste hauler licenses are not transferable. Waste haulers shall remove city license stickers and inform the administrator when truck ownership is transferred.

**21-24. DENIAL, SUSPENSION AND REVOCATION OF LICENSE.**

(a) The administrator may suspend, revoke or deny a waste hauler license for any of the following reasons:

(1) A material misstatement of facts in a license application or submission of an incomplete application,

(2) Failure to pay fees or costs as allowed by city code,

(3) Violation of the rules governing waste haulers as found in subchapters 2, 3 and 7 of this chapter.

(4) An inspection shows deficiencies in equipment,

(5) The waste hauler's license has been suspended by the city due to noncompliance with the provisions of this subchapter.

(b) No suspension or revocation shall be issued except upon notice delivered to the licensee by mailing the notice through the regular mail addressed to the licensee at the address listed on the license application, a minimum of ten days prior to the date set for the hearing before the city manager or his or her designee. Such notice shall inform the licensee of the time, date and place of the hearing, the purpose of the hearing, and shall set out the reasons therefore. Provided that in case of violation of this subchapter of such nature that the violation is deemed to be an immediate hazard by the administrator, the administrator shall be authorized to temporarily suspend the license until notice can be given and hearing held.

(c) If, after such a hearing, the city manager or his or her designee makes a finding based on substantial evidence that a violation of this subchapter did in fact occur as alleged, the city manager or his or her designee may continue suspension of, suspend or revoke the license; the determination of whether to revoke such license shall be in the discretion of the city manager or his or her designee and shall be dependent upon the circumstances surrounding the violation and its severity.

(d) The decision of continued suspension, suspension or revocation

made by the city manager or his or her designee may be appealed to the city council. In order to appeal such decision, written notice of appeal must be filed with the city clerk within three days after receipt of the decision. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the decision of continued suspension or revocation of the city manager or his or her designee.

(e) The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the city clerk. The hearing of such appeal shall be scheduled at the next regular council meeting, if such notice is received by 5:00 p.m. on the Wednesday before the next regular council meeting. If notice is not received by the above designated time the hearing will be scheduled for the next following council meeting. The hearing may be continued for good cause. The hearing shall be confined to the record made before the city manager or his or her designee and the arguments of the parties or their representatives, but no additional evidence shall be taken. After such hearing, the city council may affirm or reverse the order of the city manager or his or her designee. Such determination shall be contained in a written decision and shall be filed with the city clerk within three days after the hearing, or any continued session thereof.

(f) If the city council affirms the action of the city manager or his or her designee, continuing the suspension or revocation, the city council shall so state and order in its written decision.

(g) A licensee whose license has been revoked shall not be eligible for another waste hauler license for a period of two years.

**21-25. REPEALED BY ORD. 13,---**

**21-26. STANDARDS FOR VEHICLES AND EQUIPMENT.**

For all vehicles and equipment used by waste haulers the licensee shall:

- (1) Prevent waste and wastewater from leaking, spilling, or discharging onto roads or right-of-way.
- (2) Assure proper construction and repair of the equipment to allow cleaning.
- (3) Maintain vehicles and equipment in an essentially rust-free and sanitary condition and appearance.
- (4) Display the business name as it appears on the waste hauler license in three inch or larger letters on the left and right sides of the vehicle.
- (5) Display a city license decal on the right side of the truck cab bearing the city license number and expiration date of the license. A city license decal shall be provided by the administrator as the only proof of licensing after the applicant has met all conditions and requirements of this subchapter.

#### **21-27. DISPOSAL.**

Waste haulers shall dispose of hauled wastes permitted in this subchapter according to rules for land application as found in 567 I.A.C, Chapters 65, 69, and 121 thereof, or at a location designated by the administrator. Waste haulers may also dispose of hauled wastes at municipal wastewater plants outside the WRA service area where such wastes are accepted. Hours of operation at the wastewater reclamation facility disposal station shall be set by the administrator. Special arrangement between the waste hauler and the administrator shall be allowed to permit response to emergency conditions. Waste haulers shall maintain the designated location in a clean and orderly condition to avoid noxious odors and unsanitary conditions.

#### **21-28. IDENTIFICATION OF SOURCE.**

Waste haulers must document the nature and origin of wastes collected and the site and method of disposal for wastes that are removed from Des Moines locations or are delivered to the POTW. Such information shall be provided on a manifest form provided by the administrator. The manifest shall also include: 1) the name, address and phone number of the waste generator, 2) the type of waste collected, 3) the approximate volume of the load, 4) any other information consistent with identification and tracking of wastes. The administrator or his or her designee shall have the right to verify all information required by this paragraph including the right to measure, sample and analyze any waste regulated by this subchapter. The waste hauler shall obtain approval from the administrator or his or her designee prior to loading wastes originating from an industrial/ commercial source unless previous approval is on record at the POTW.

#### **21-29. MIXING WASTES.**

Wastes from residential and non-residential sources shall not be mixed. Wastes from an industrial/commercial source shall not be mixed with wastes of any type from another location.

Portable toilet and food grease trap wastes may be mixed with similar wastes from different locations. Residential wastes from several sources may be mixed as long as each source is identified.

Any tanks or equipment used for hauling waste to the POTW shall not be used for hauling hazardous wastes or hazardous substances, as defined in 567 I.A.C.,

Chapter 131 and in 40 CFR Part 261, or other Wastes detrimental to the POTW.

### **21-30. STANDARDS OF DISPOSAL AT THE POTW.**

Disposal of wastes to the POTW shall be carried out in accordance with pretreatment standards and requirements established by federal, state, and city governments including categorical standards developed for the waste generator's industrial category. The administrator may reject wastes from waste haulers that do not comply with this paragraph or with any other provision of this subchapter. Waste haulers shall not deliver wastes to the wastewater treatment plant that:

- (1) Exceed the limits found in sections 21-84, 21-85(C)(4), 21-86, and 21-87 found in subchapter 7 of chapter 21.
- (2) Are hazardous waste as defined in 40 CFR Part 261 or 567 I.A.C., Chapter 131.
- (3) Originate from sand traps, such as those located in car, truck, and trailer washes, which primarily remove sand and dirt after April 1, 1992.
- (4) Originate from mineral oil and grease traps, such as those located at vehicle maintenance facilities after April 1, 1992.
- (5) Originate from an animal confinement facility after April 1, 1992.
- (6) Are not completely identified or are from industrial/ commercial sources that are not approved by the administrator as required in section 21-32.
- (7) Are mixed in a manner prohibited in section 21-33.
- (8) Are wastes other than residential from outside the WRA, except through requests to the administrator in emergency situations.

### **21-31. REJECTION OF WASTE LOADS.**

The administrator or his or her designee may reject any hauled waste load that violates or is suspected to violate the requirements of this code or that fails to meet any other guidelines established by the administrator to protect personnel, equipment, and processes at the POTW. Waste haulers must:

- (1) Remove rejected waste from the wastewater treatment plant,

- (2) Immediately remove any additional wastes contaminated by the rejected waste while contained at the POTW prior to introduction into the sewer,
- (3) Properly dispose of all rejected wastes in accordance with state and federal law.
- (4) Provide the administrator with a written statement, signed by the waste hauler license holder, stating the location, date, and time the rejected load was disposed of. The statement is due within five calendar days after the waste is rejected.

Vehicles used to haul rejected wastes shall not be allowed to enter the POTW with additional wastes until the statement required by this section is delivered to the administrator.

### **21-32. ENFORCEMENT PROCEDURES.**

Any person, corporation or other legal entity who violates or resists the enforcement of any provisions of this subchapter shall be guilty of a municipal infraction. Each violation constitutes a separate offense. Any person, corporation or other legal entity who violates a provision of this chapter after having previously been found guilty of violating the same provision of this subchapter at the same location or at a different location shall be guilty of a repeat offense.

(a) Violation of a pretreatment standard or requirement referred to in 40 CFR 403.8 is a municipal infraction and shall be punished by a civil penalty not to exceed \$1,000.00 for each day said violation exists or continues.

(b) All other violations of this subchapter are municipal infractions punishable by a civil penalty of \$100.00 for each initial offense and \$200.00 for each repeat offense.

Seeking a civil penalty as authorized in this section does not preclude the city from seeking alternative relief, including any order for abatement or injunctive relief, from the court in the same action or as a separate action. The enforcement provisions in this section are in addition to those set out in section 21-27, 21-115, and 21-116.

### **21-33. FEE PAYMENT FOR DOMESTIC AND INDUSTRIAL WASTES.**

A treatment fee shall be set per gallon of hauled waste which shall be equal to the cost of disposal and treatment of an equivalent mass of pollutants other wise delivered into the sewer system which includes the basic sewer charge in section 21-38 and the demand charge in section 21-40 of subchapter 4 and surcharges in section 21-94 of subchapter 7 of chapter 21 of this code. The fee shall also include a program cost component which shall be the annual administrative costs of the waste hauler program divided by the total gallons of hauled waste treated in the previous calendar year. The treatment fee shall be based on the average concentration of

pollutants found in hauled wastes delivered to the POTW and shall be reviewed annually by the Administrator.

Loads originating outside the WRA shall pay a fee equal to 1.5 times the load within the WRA.

Fees shall be computed and recorded at the disposal station and shall be paid by the waste hauler on the basis of monthly billings by the finance department. Limits of credit shall not exceed 60 days. Abuse of such credit shall be grounds for liability on the waste hauler's bond and for refusal of disposal services to any waste hauler under this subchapter.

A customer service charge, as provided for in section 21-41 of subchapter 4 of chapter 21, shall be assessed for each monthly invoice issued to a hauler. Fees for testing and sampling waste loads shall be as provided for in section 21-94 of chapter 21. The fee for sampling waste loads at the wastewater treatment plant shall be \$5.00 per load.

Waste haulers may elect to have their loads tested for actual concentration at their expense as set out in section 21-94. When a waste hauler has elected to have loads tested for actual concentration, the treatment fee will be based on the actual concentration whether it be higher or lower than the average concentration treatment fee. Said testing will be done at least once a month or more often as required by the administrator or his or her designee.

Sec. 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

Thomas A. DeSio

Assistant City Attorney