

ORDINANCE NO. 2019-100

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF POLK CITY, IOWA, BY AMENDING CHAPTER 101 REGULATION OF INDUSTRIAL WASTEWATER, COMMERCIAL WASTEWATER, AND HAULED WASTE.

WHEREAS, the City Council of the City of Polk City is amending the Municipal Code of the City of Polk City by amending Chapter 101 to regulate industrial wastewater, commercial wastewater and hauled waste.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF POLK CITY, IOWA:

Section 1: That the Municipal Code of the City of Polk City, Iowa, be and it is hereby amended by updating Chapter 101 as follows:

Section 101.101 definitions are hereby amended by adding *O&M* and deleting the definitions of *Slug or slug load* and *WRA participating community* or *WRA participating communities* and inserting in their place the following:

O&M means operation and maintenance

Slug or *slug load* means any discharge of water or wastewater which, in concentration of any pollutant, measured using a grab or composite sample, is more than five times the allowable concentration as set forth in sections 101.202 and 101.203 of this chapter or in a user's most recent wastewater discharge permit or which exceeds a slug concentration level specified in a wastewater discharge permit. A discharge with pH outside the allowable range by more than one standard unit (S.U.) shall also be considered a slug.

WRA participating community or *WRA participating communities* means, individually or collectively, depending on context, the cities of Altoona, Ankeny, Bondurant, Clive, Cumming, Des Moines, Johnston, Norwalk, Pleasant Hill, Polk City, Waukee and West Des Moines, and Polk County, Warren County, the Urbandale Sanitary Sewer District, the Urbandale-Windsor Heights Sanitary District and the Greenfield Plaza/Hills of Coventry Sanitary District, together with any other cities, counties, or sanitary districts that become participating communities under the provisions of the WRA agreement.

Section 101.102 Abbreviations is hereby repealed and replaced with the following:
101.102. Abbreviations.

The following abbreviations, when used in this chapter, shall have the designated meanings:

BETX	Benzene, ethylbenzene, toluene, and xylenes(total)
BOD	Biochemical oxygen demand
BMR	Baseline monitoring report
C	Celsius

CFR	Code of Federal Regulations
COD	Chemical oxygen demand
EPA	Environmental Protection Agency
F	Fahrenheit
FOG	Fat, oil, and grease
GPD	Gallons per day
IDNR	Iowa Department of Natural Resources
lb/day	Pounds per day
mgd	Million gallons per day
mg/l	Milligrams per liter
NCPS	National Categorical Pretreatment Standards or categorical standards
NH3-N	Ammonia nitrogen
NPDES	National Pollutant Discharge Elimination System
O&G	Oil and grease
POTW	Publicly owned treatment works
SCP	Spill control plan
SIC	Standard industrial classification
SNC	Significant noncompliance
RCRA	Resource Conservation and Recovery Act
TCLP	Toxicity characteristic leaching procedure
TFE	Trichlorotrifluoroethane
TKN	Total Kjeldahl nitrogen
TOH	Total organic hydrocarbons
TRC	Technical review criteria
TSS	Total suspended solids
TTO	Total toxic organics
USC	United States Code
U.S. EPA	United States Environmental Protection Agency
VPH	Volatile petroleum hydrocarbons

Section 101.202 is hereby amended by removing paragraph (3) and inserting into its place the following:

- (3) Solid or viscous pollutants which will cause obstruction to the flow in the POTW resulting in interference. Such pollutants include but are not limited to grease, garbage with particles greater than one-half inch any dimension, animal tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, wipes, spent grains, spent hops, wastepaper, wood, plastics, tar, asphalt residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing waste, or tumbling and de-burring stones, and wastewater containing fat, wax, O&G, or other substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (0 and 65 degrees Celsius).

Section 101.203. Local Limits for specific pollutants is hereby repealed and replaced with the following:

101.203. Local limits for specific pollutants.

Generally. Local limits for specific pollutants discharged pursuant to this chapter shall be as follows:

- (1) *Dilution.* Dilution of the discharge from a pretreatment facility or from a regulated process is prohibited as a method for treatment of wastes in order to meet the limits set forth in this chapter.
- (2) *Sample location.* Measurement of pollutant concentrations to determine compliance shall be made at the point immediately following the pretreatment facility and before mixture with other waters, unless another point is designated by the WRA director. If necessary, the concentrations so measured shall be recomputed to exclude the effect of any dilution that is improper using the combined waste stream formula.

Headworks limits; average mass. The average composite loading of all industrial users contributing the following specific pollutants to the POTW shall not exceed the allowable total pounds. The allocation of pollutants between industrial and nonindustrial sources may be adjusted by the director provided that the allowable total loading for any pollutant at the headworks of the WRF is not exceeded.

30-Day Average Allowable Pounds/Day		
Pollutant	Total	Industrial
BOD	195,600	135,153
TSS	300,400	208,463
NH3	13,000	6,959
TKN	27,760	16,950

Pollutant	Maximum Allowable Headworks Loading Pounds/Day	Maximum Allowable Industrial Loading Pounds/Day
	Total	Industrial
Arsenic-T	7.58	3.81
Cadmium-T	3.65	2.16
Chromium-T	136.35	120.90
Copper-T	148.56	125.51
Cyanide-T	17.08	8.28
Lead-T	28.17	20.94
Mercury-T	0.999	0.747
Nickel-T	87.27	75.75
Silver-T	23.30	19.77
Zinc-T	360.59	283.53

Discharge concentration limits and review criteria. Discharge concentration limits and review criteria shall be as follows:

- (1) The discharge into the POTW of any materials, water or waste having a pollutant concentration greater than the limits in subsections (c)(3), (4), and (5) of this section or containing pollutants not listed in this subsection shall be subject to the review and approval of the WRA director. After review of the proposed discharges, the WRA director may:
 - a. Reject the waste for reasons consistent with section 101.105 of this chapter.
 - b. Require pretreatment to an acceptable pollutant concentration for discharge to the POTW.
 - c. Require control of the quantities and rates of discharge of the water or waste.
 - d. Require payment to cover the added cost of handling and treatment of water and waste or any combination thereof.
 - e. Reduce the maximum or average mass loading of present and prospective individual users on any reasonable prorated basis to meet headworks loading limits at the WRF.
 - f. Require the user to obtain a wastewater discharge permit and be subject to any of the rules and regulations contained therein.
 - g. Require the user to meet local limits when local limits are more restrictive than National Categorical Pretreatment Standards, provided that headworks loading limits are met.
 - h. Initiate enforcement action in response to any noncompliance with this chapter using the enforcement procedures outlined in this chapter.
 - i. Take any combination of the steps in subsections (c)(1)a through (c)(1)g, as appropriate.

- (2) Users discharging wastewater to the POTW whose pollutant concentrations or flows are greater than the following shall be considered industrial users for purposes of sewer charges and may be regulated or permitted by the WRA director as appropriate:

	Pollutant	Daily Maximum (mg/l)
a.	BOD	200
b.	TSS	250
c.	COD	300
d.	O&G-T	100

e.	TKN	30
f.	NH3-N	15
g.	An average daily flow greater than 5,000 gallons or having an unusual concentration of flow.	

(3) Pollutant limits. Average and maximum concentration limits for users without National Categorical Pretreatment Standards for these pollutants shall be as follows:

Pollutant	Daily Maximum (mg/l)	Monthly Average (mg/l)
Arsenic-T	0.38	0.25
Cadmium-T	0.08	0.05
Chromium-T	6.43	4.29
Copper-T	10.21	6.80
Cyanide-T	0.53	0.36
Lead-T	1.43	0.95
Mercury-T	0.042	0.028
Nickel-T	7.22	4.81
O&G-T	400.0	--
O&G-Mineral	100.0	--
Silver-T	1.30	0.87
VPH	10.0	--
Zinc-T	19.64	13.09

pH range shall be not lower than 5.0 or greater than 12.0.

Temperature (liquids or vapors) shall be not greater than 150 degrees Fahrenheit at the point of entry into the POTW.

(4) Daily maximum pollutant limits for hauled waste. Wastes delivered to the WRF by truck or rail shall not exceed the following concentrations in any load or overall daily loading limits unless otherwise approved by the WRA Director:

Pollutant	Concentration (mg/l)	Loading (pounds/day)
COD	100,000	--
O&G-T	50,000	--
VPH	10.0	--
Arsenic-T	--	0.014
Cadmium-T	--	0.93
Chromium-T	--	24.74
Copper-T	--	23.71
Cyanide-T	--	0.29
Lead-T	--	6.70
Mercury-T	--	0.12

Nickel-T	--	3.71
Silver-T	--	0.26
Zinc-T	--	87.62

pH range shall be not lower than 5.0 or greater than 12.0.

(5) Daily maximum limit for gasoline cleanup projects. Discharge of wastewater from sites where gasoline is being removed from the soil or groundwater shall meet the following limits prior to discharge to the POTW:

Pollutant	mg/l
Benzene	0.050
BETX	0.750

(d) No subsection of this section shall be construed to provide lesser discharge standards than are or that may be imposed and required by U.S. Environmental Protection Agency or the Iowa department of natural resources, nor to allow the average allowable total loading for any pollutant at the headworks of the WRF to be exceeded.

**Section 101.212 Fees is hereby repealed and replaced with the following:
101.212. Fees.**

To provide for the recovery of costs from users of the POTW and for the implementation of the pretreatment program established by this chapter, the following fees are hereby established and shall be applicable to discharges by all users:

- (1) All users shall be subject to the following fees and charges:
 - a. The wastewater discharge permit application fee shall be \$200.00 for a class A permit, \$100 for a class B permit, and \$100 for a soil/groundwater remediation permit.
 - b. The annual fee for a class A wastewater discharge permit shall be \$1000.00.
 - c. The annual fee for a class B wastewater discharge permit shall be \$400.00.
 - d. The fee paid by each industrial user when an accidental discharge or slug load occurs shall be up to \$1,000.00. The fee shall reimburse the WRA for any costs incurred as a result of the discharge.
 - e. The fee for sampling a user's discharge shall be \$50.00 per day when using a 24-hour automatic sampler. The fee for subsequent consecutive days and for collecting grab samples shall be \$25.00 per day. When a sampling event must be rescheduled due to failure of the user's sampling equipment or due to a sampler seal (used to detect sample tampering) being broken, a trip charge of \$25.00 and a rescheduling fee of \$50.00 shall be assessed. The trip charge fee may be waived if

the user informs the WRA of sampling equipment failure prior to 8:00 a.m. of a scheduled sampling day.

- f. Laboratory analysis fees for those analyses performed by the WRA shall be as follows:

LABORATORY ANALYSIS FEES

Test		Cost/Sample
BOD		\$ 20.00
COD		20.00
Total Organic Carbon (TOC)		20.00
TSS		10.00
pH		5.00
Oil and grease		
	Total	35.00
	Mineral/nonmineral	35.00
Nitrogen, ammonia		15.00
Nitrogen, nitrate		15.00
TKN		30.00
Phosphorous, total		25.00
Potassium		12.00
Calcium carbonate equivalent		15.00
Soil analysis, each pollutant		20.00
Phenols		28.00
Cyanide		30.00
Metals:		
	Arsenic	20.00
	Selenium	20.00
	Mercury	25.00
	Other metals (per parameter)	15.00
	BETX (OA-1)	40.00
	VPH (OA-1)	40.00
	BETX & VPH (OA-1)	45.00
USEPA Tests:		
	608 Organochlorine Pesticides & PCBs	70.00
	624 Volatile Organic Compounds	140.00
	625 Base/Neutral Organic Compounds and/or	290.00
	625 Acid/Organic Compounds	290.00

- g. Fees for analysis performed by laboratories other than the WRA laboratory shall be the full cost of each analysis.
- h. Fees for annual or biannual inspections of permitted users shall be \$100.00 for those holding a class A permit and \$50.00 for those holding a class B permit.

- i. Fees for copying and mailing documents shall be \$1.00 for the initial page and \$0.25 for each additional page plus postage. No charges shall be assessed for requests for copies received from individuals or agencies served by the WRA, provided the number of pages requested does not exceed ten.
 - j. Fees for past due reminders sent each 30 days that a balance remains unpaid shall be \$5.00.
 - k. Prohibitive waste charges for each pollutant discharged in excess of permit or ordinance limits shall be \$25.00 per day for class B permit holders and \$50.00 per day for class A permit holders. High strength charges shall double if discharges are slug loads. Payment of fees does not preclude other enforcement action and may not be paid in lieu of compliance with discharge limitations.
 - l. Fees for inspection of a Food Service Establishment as defined in division 5 of this chapter, regulation of fats, oils and grease discharge by food service establishments, shall be \$50.00 per visit.
- (2) All users contributing wastewater in excess of the following concentrations shall be assessed a surcharge, which shall be in addition to the rates and charges ordinarily billed to such users for sewer use:

Pollutant	Surcharge (per pound)
Suspended solids in excess of 250 mg/l	\$0.16
BOD or CBOD in excess of 200 mg/l	0.11
TKN in excess of 30 mg/l	0.61
Oil and grease in excess of 100 mg/l	0.06

Chemical oxygen demand (COD) in excess of 300 mg/l may be used at the discretion of the WRA director in lieu of CBOD. In such case the excess COD concentration shall be multiplied by the known CBOD/COD ratio or by a ratio of two-thirds to establish an equivalent CBOD concentration.

Ammonia nitrogen (NH₃-N) in excess of 15 mg/l may be used at the discretion of the WRA director in lieu of TKN by multiplying the excess NH₃-N concentration times two to establish an equivalent TKN concentration.

- (3) The establishment and imposition of new or different fees or charges, in addition or in substitution for those provided above in this section, shall be by ordinance amending this chapter. The amounts of the fees and charges established in this section shall be and remain in effect until such time as the WRA Board shall by resolution revise said fee amounts. Said revised fees and charges shall take effect after the board causes said resolution to be sent to this city council and thereafter causes same to be published in a newspaper of general circulation in each county in which participating communities are located.

**Section 101.304 is hereby repealed and replaced with the following:
101.304. Report on compliance by categorical industries.**

Users subject to National Categorical Pretreatment Standards shall submit a report to the WRA director containing the information described in subsections 101.303 (1)c, (1)d, (1)e and (1)k of this division within 90 days following the date for final compliance with applicable National Categorical Pretreatment Standards or, if a new source, following commencement of discharge. Users subject to equivalent mass or concentration limits shall provide a reasonable measure of the user's long-term production rate. For all other users subject to National Categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production or other measure of operation, this report shall include the user's actual production during the appropriate sampling period. All reports must contain the certification statement and be signed in accordance with section 101.313 of this division.

Section 101.315 Inspection, sampling and recordkeeping authority is hereby amended by deleting paragraph 3 and inserting in its place the following

- (3) All users subject to any of the reporting requirements of this chapter shall maintain copies of reports and records of all information as required in 40 CFR 403.12(o) resulting from any monitoring activities required by this chapter for a minimum of three years and shall make such records available for inspection and copying by the WRA and its operating contractor. This period of retention shall be extended until the completion of any unresolved negotiation, hearing, or litigation involving a purported violation.

**Section 101.406 is hereby repealed and replaced with the following:
101.406. Performance bonds.**

The WRA director may decline to reissue a permit to any user who has failed to comply with this chapter or any order or previous permit issued under this chapter unless such user first files a satisfactory bond payable to the WRA in a sum not to exceed the value determined by the WRA director to be necessary to achieve compliance giving due consideration to the number and magnitude of previous violations, potential need for remediation and stating the reasons which support the amount of bond in a written order directed to the user, but in no case shall the bond be required to be greater than \$100,000. The user shall use a bond form prescribed by the WRA.

Section 101.407 is hereby amended by deleting paragraph (b)(4) and inserting in its place the following:

- (b) *Procedure for revocation of discharge permit and for termination of sewer service.* The procedure for revocation of a discharge permit and termination of sewer service shall be as follows:
 - (4) The decision and order of the WRA director to revoke the permit of a user may be appealed to the WRA appeal committee. Such appeal request shall be in writing, shall include the grounds for appeal including any factual findings which are disputed, and shall be delivered to WRA not less than 10 days after the director's entry of the order of

revocation of permit and/or termination of sewer service. Such appeal request shall be considered delivered when placed in the mail, return receipt requested, addressed to:

WRA Appeal Committee
c/o Des Moines Metropolitan Wastewater Reclamation Authority
3000 Vandalia Road
Des Moines, Iowa 50317

The chair of the appeal committee shall schedule the appeal and shall cause notice of the time, date and place of the hearing to be mailed to the appealing user. Such appeal shall be decided by majority vote of the appeal committee. If the appeal committee affirms the order of the WRA director revoking the permit and/or terminating sewer service, the appeal committee shall so state and order in its written decision.

Section 101.413 is hereby repealed and replaced with the following:

101.413. Notices to the WRA, the WRA board, the WRA director or the WRA steering committee.

Notices which are required to be given or which may be given to the WRA, the WRA board, the WRA director or the WRA appeal committee, as provided in this chapter, shall be mailed to such entity, body or person at the following address:

Des Moines Metropolitan Wastewater Reclamation Authority
Des Moines Wastewater Reclamation Facility
3000 Vandalia Road
Des Moines, Iowa 50317

Section 101.501 is hereby repealed and replaced with the following:

101.501. Purpose.

The purpose of this section shall be to aid in the prevention of sanitary sewer blockages and obstructions from contribution and accumulation of Fat, Oil, and Grease (FOG) into the POTW. Such discharges from commercial kitchens, restaurants, food processing facilities and all other establishments, where Fat, Oil and Grease of vegetable or animal origin are discharged directly or indirectly into the POTW, can contribute to line blockages and/or spills in violation of Title 40, Code of Federal Regulations 40 CFR Part 403.

Section 101-502 Definitions, *Best Management Practices* or *BMPs* and *User* is hereby repealed and replaced with the following:

101.502 Definitions

Best management practices or *BMPs* means and includes schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. For purposes of this division, *best management practices* include procedures and practices that reduce the discharge of FOG to the building sewer, to the city sanitary sewer system and to the POTW.

User as used in this division has the same meaning as the definition in section 101.101, but also includes persons who discharge wastewater to the POTW from mobile sources, such as mobile food vendors.

Section 101.507 Installation of grease interceptors and grease traps is hereby amended by repealing and replacing the Grease Interceptor Sizing as follows:

Grease Interceptor Sizing

1. Peak meals per hour
 - a. Seating capacity of FSE _____
 - b. Occupancy of FSE _____*
 - c. Seating or occupancy x meal factor of 1.3 (45 minute meal) or 1.0 (intermittent-use FSEs) = Peak meals per hour
- * Church: include all area(s) used for meal service
- * Assisted Living / nursing facility: equal to maximum number of residents (per State license)
2. Waste flow rate, gallons of flow
 - a. Commercial, equipped kitchen with dishwasher & one garbage disposal* 7
 - b. Commercial, equipped kitchen with dishwasher, no garbage disposal 6
 - c. Commercial, equipped kitchen with no dishwasher, one garbage disposal* 6
 - d. Commercial, equipped kitchen with no dishwasher, no garbage disposal 5
 - e. Single service kitchen** 2
- * Each additional garbage disposal, add one (1) gallon
- ** Single service kitchen = no garbage disposal, no dishwasher and all service is single use
3. Retention time, hours
 - a. Commercial kitchen 2.5
 - b. Single service kitchen 1.5
4. Storage factor
 - a. Commercial Kitchen up to 8 hours of operation 1
 - b. Commercial kitchen up to 12 hours of operation 1.5
 - c. Commercial kitchen up to 16 hours of operation 2
 - d. Commercial kitchen up to 20 hours of operation 2.5
 - e. Commercial kitchen up to 24 hours of operation 3
 - f. Single service kitchen 1.5

Peak Meals per Hour	X	Waste Flow Rate	X	Retention Time	X	Storage Factor	=	Calculated Interceptor Size
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Section 101.508 is hereby repealed and replaced with the following:

101.508. Operation, maintenance and cleaning of grease interceptors and grease traps and grease hauler certification.

- (a) The owner or operator of an FSE which is required to pass wastewater through a grease interceptor or trap shall operate and maintain the grease interceptor or trap so that

wastewater exiting the grease interceptor or trap shall not exceed four hundred (400) milligrams per liter of FOG.

- (b) The owner or operator of the FSE shall cause the grease interceptor or trap to be cleaned as hereinafter required when FOG and solids reach 25% of the design liquid level of the grease interceptor or trap, or sooner if necessary to prevent carry over of FOG from the grease interceptor or trap into the city sanitary sewer system. Interceptors and traps shall be cleaned at three (3) month intervals or less. A longer cleaning interval must be approved by the WRA Director. If the owner or operator of the FSE, or an employee of the owner or operator, has a grease hauler certification from the WRA indicating satisfactory completion of the course of training offered by the WRA on the cleaning of grease interceptors and traps, such person or persons may clean the grease trap in the facility included in such grease hauler's certification. Failure to adequately clean the grease trap, properly dispose of all grease trap waste, or maintain certification pursuant to section 101.411. Alternatively, the owner or operator of an FSE may employ a waste hauler licensed by the WRA pursuant to division 6 of this chapter to clean the grease interceptor or trap, provided that the waste hauler personnel performing the cleaning has a current grease hauler certification from the WRA indicating satisfactory completion of the course of training offered by the WRA on the cleaning of grease interceptors and traps.
- (c) person who cleans a grease interceptor or trap shall do so in accordance with the following procedures and requirements. The person cleaning the grease interceptor or trap shall:
 - 1) Completely empty and remove the contents (liquids and sludge) of all vaults of the grease interceptor or trap, and remove the grease mat and scrapings from the interior walls. As part of each cleaning of a grease interceptor or trap, the owner or operator of the FSA or the licensed waste hauler employed by the FSE owner or operator, shall perform the following maintenance activities:
 - a. Check that the sanitary "tees" on the inlet and outlet sides of the grease interceptor are not obstructed, loose, or missing.
 - b. Verify that the baffle is secure and in place.
 - c. Inspect the grease interceptor or trap for any cracks or other defects.
 - d. Check that lids are securely and properly seated after completion of cleaning.
 - 2) Not deposit waste and wastewater removed from a grease interceptor or trap back into the grease interceptor or trap from which the waste or wastewater was removed or into any other grease interceptor or trap, for the purpose of reducing the volume of waste and wastewater to be disposed of.
 - 3) Not introduce enzymes, emulsifying chemicals, hot water or other agents into a grease interceptor or trap to dissolve or emulsify grease or as a grease abatement method. Introduction of bacteria as a grease degradation agent is permitted with prior written approval by the WRA director.

- 4) Dispose of waste and wastewater removed from a grease interceptor or trap at the WRF or at a facility approved for disposal of such waste by the WRA director. Waste and wastewater removed from a grease interceptor or trap shall not be discharged to any private sanitary or storm sewer or to the city sanitary or storm sewer system. The waste hauler shall provide a copy of the disposal receipt for all waste and wastewater removed from a grease interceptor or trap to the owner or operator of the FSE.
- 5) Not use an automatic grease removal system to clean a grease interceptor without prior written approval of the WRA director, and, if the use of an automatic grease removal system is approved, shall operate same in a manner that the grease wastewater discharge limit, as measured from the system's outlet, is consistently achieved.
 - (d) The WRA director may make exceptions to the above requirements, or may approve alternative operational requirements or cleaning and maintenance methods, provided that such exceptions or approvals shall be made in writing by the WRA director.
 - (e) The WRA Director may issue a grease hauler certification upon satisfactory completion of the course of training offered by the WRA on the proper maintenance and cleaning of grease interceptors and traps, disposal procedures and record keeping. Such certification shall be for a period of 5 years and shall be in effect for the person receiving such training and for the FSE site for which such person is the owner, operator or employee thereof.

Section 101.510 Inspection of grease interceptors and related sewers and equipment is hereby amended by deleting paragraph (3) and inserting in its place the following:

- 3) Shall, upon request by the WRA director's authorized representative, open any grease interceptor or grease trap for the purpose of confirming that maintenance frequency is appropriate, that all necessary parts of the installation are in place, including but not limited to, baffles, and effluent tees, and that all grease interceptors, traps, and related equipment and piping is maintained in efficient operating condition.

Section 101.513 is hereby repealed and replaced with the following

101.513. Notice of violation - administrative penalties – corrective action order.

The director, or such other designated officers or officials with enforcement authority as provided in section 101.512, are authorized to issue a notice of violation imposing an administrative penalty upon any person who fails to perform an act required by this division or who commits an act prohibited by this division. Such notice may include a corrective action order requiring the user to take one or more of the following corrective actions within thirty (30) days:

- 1) Conform to best management practices;
- 2) Submit copies of the grease interceptor or trap maintenance log;
- 3) Develop, submit and implement a FOG compliance plan to be approved by the director or designated enforcement official; or
- 4) Install a compliant grease interceptor.

The administrative penalty for such violations shall be as provided in the schedule of administrative penalties adopted by the city council by resolution.

Notice of violation, with the applicable penalty for such violation noted thereon, shall be issued to and served upon the violator. Service of the notice may be by regular mail or by delivery in person.

Penalties assessed pursuant to notice of violation shall be paid by the violator in full as directed in the notice within thirty (30) days of its issuance.

The administrative penalties set out in the schedule of administrative penalties shall be charged in lieu of the fines and penalties provided for in section 101.514, unless the violator refuses to correct the violation and pay the scheduled administrative penalty, or the WRA director determines that immediate enforcement action by misdemeanor or municipal infraction prosecution is, in view of the particular circumstances of the case, necessary to achieve compliance with the requirements of this chapter. A record of all violations, administrative penalties charged or other enforcement actions taken shall be maintained by the WRA for a period of three years.

Section 101.516 is hereby repealed and replaced with the following:

101.516. Appeal of corrective action order or cease and desist order.

(a) Any person aggrieved by a corrective action order or a cease and desist order issued by the WRA director or by such other designated officers or officials with enforcement authority as provided in section 101.512, may file an appeal and request a ruling that such order be modified or rescinded.

(b) Such appeal request shall be in writing, shall include the grounds for appeal including any factual findings which are disputed, and shall be delivered to the WRA within ten (10) days after the WRA director's issuance of the order. Such appeal request shall be considered delivered when placed in the mail, return receipt requested, addressed to:

WRA Appeal Committee
Des Moines Metropolitan Wastewater Reclamation Authority
3000 Vandalia Road
Des Moines, Iowa 50317

(c) The chair of the appeal committee shall schedule the appeal and shall cause notice of the time, date and place of the hearing to be mailed to the appealing party. Such appeal shall be decided by majority vote of the appeal committee. The appeal committee may affirm, modify or rescind the order of the director and shall so state and order in its written decision.

Section 101.601. Definitions is hereby amended by deleting *Vehicle* and *Waste* and inserting the following:

Vehicle means a commercial vehicle equipped with a tank and used to remove or transport waste.

Waste means human excreta, water, scum, sludge, septage, FOG, food waste or grease solids, and non-hazardous industrial wastewaters and solids removed from public and private wastewater disposal systems, holding tanks, impervious vaults, portable or chemical toilets, or from devices used to trap grease resulting from food preparation. *Waste* also means liquid wastes resulting from spill clean-up.

Section 101.608. Standards of disposal at WRF is hereby amended by deleting paragraph (3) and inserting in its place the following:

- (3) Originate from mineral oil unless first treated to remove the oil and grease.

Section 101.614. Denial, suspension and revocation of license is hereby repealed and replaced with the following:

Section 101.614. Denial, suspension and revocation of license.

(a) *Grounds for denial, suspension or revocation of waste haulers license.* The WRA director may deny, suspend or revoke the waste hauler license and/or grease hauler certification of any waste hauler who violates any provision of this division or any condition of its license, or who commits any of the following violations, or who does not meet the following requirements:

- (1) Violation of any term, condition or requirement of this division, the license, or applicable state of Iowa or federal laws or regulations.
- (2) Obtaining a license by misrepresentation.
- (3) Falsification of, failure to complete or failure to fully disclose all relevant facts in a license application.
- (4) Failure to pay fees, administrative penalties or fines.
- (5) Failure to report a spill to the WRA.
- (6) Using wash down water or otherwise diluting the permitted waste for the purpose of meeting discharge limitations or requirements.
- (7) Falsification of, failure to complete or failure to fully disclose all relevant facts in any report, manifest information or record required by the license or this division.
- (8) Tampering with samples or sampling equipment intended to accurately reflect the contents of each hauled waste load.

- (9) Refusing to allow WRA personnel timely access to the waste hauler's facility premises, vehicles, or records.
- (10) Failure to perform as required under a corrective action order or compliance schedule issued by the WRA director.
- (11) Failure to correct any violation of this division within 30 days after notice by the WRA Director.
- (12) Failure to immediately correct any violation of this division if the condition constituting the violation is declared a threat to public health, safety or welfare by the WRA director and the director orders immediate correction.

(b) *Procedure for denial, suspension or revocation of waste hauler's license.* The procedure for denial, suspension or revocation of a waste hauler's license shall be as follows:

- (1) Any license issued to a waste hauler pursuant to this division may be denied, suspended or revoked by written order of the WRA director specifying the grounds for such action as outlined in subsection (a) of this section, which order shall not take effect until hearing thereon as hereafter provided. Upon determining that grounds exist for an order to deny, suspend or revoke a waste hauler's license, the WRA director shall cause a notice of hearing to be prepared, specifying the violations of subsection (a) of this section which are deemed to have occurred, and the time, date and place that such hearing will be held. The notice shall be sent to the waste hauler by regular mail addressed to the waste hauler's address listed on the waste hauler's license a minimum of ten days prior to the date set for hearing, and shall be deemed delivered when placed in the mail.
- (2) If after such a hearing the WRA director makes a finding based on substantial evidence that one or more violations under subsection (a) of this section have occurred as alleged, the director may deny issuance of the license, suspend the license for a fixed period, or may issue an order immediately revoking the license and ordering the waste hauler to discontinue hauling waste to the WRF or any other disposal locations approved by the director. The determination whether to deny issuance of a license, to suspend a license, or to revoke a license, shall be in the discretion of the director and shall be dependent upon the circumstances surrounding the violations of subsection (a) of this section and the severity of those violations. If the waste hauler does not appear for the hearing, the director shall issue the order revoking the waste hauler's license and ordering the cessation of delivery of hauled waste at the WRF or any other disposal locations approved by the director, which order shall take effect immediately.
- (3) The decision and order of the WRA director to deny issuance, to suspend or to revoke the license of a waste hauler may be appealed to the WRA appeal committee. Such appeal request shall be in writing, shall include the grounds for appeal including any factual findings which are disputed, and shall be delivered to WRA not less than 10 days after the director's entry of the order of denial, suspension or revocation. Such appeal request shall be considered delivered when placed in the mail, return receipt requested, addressed to:

WRA Appeal Committee
Des Moines Metropolitan Wastewater
Reclamation Authority
3000 Vandalia Road
Des Moines, Iowa 50317

The chair of the appeal committee shall schedule the appeal and shall cause notice of the time, date and place of the hearing to be mailed to the appealing waste hauler. Such appeal shall be decided by majority vote of the appeal committee. If the appeal committee affirms the order of the WRA director denying issuance, suspending or revoking the license and ordering the cessation of waste deliveries at the WRF or other approved locations, the appeal committee shall so state and order in its written decision.

- (4) A waste hauler whose license has been denied or revoked shall not be eligible for issuance or reinstatement of its license until 30 days after the violating conditions have been corrected to the satisfaction of the director.

Section 2: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3: This ordinance shall be in full force and effect after its passage, approval and publication as provided by law.

PASSED AND APPROVED this _____ day of _____, 2019.

Jason Morse, Mayor

ATTEST:

Jenny Gibbons, City Clerk

First reading:

Second reading:

Third reading:

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