

ORDINANCE NO. 13,796

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. 11,700, passed July 29, 1991, and Ordinance No. 11,843, passed June 22, 1992, and Ordinance No. 11,845, passed June 22, 1992, and Ordinance No. 11,996, passed May 21, 1993, and Ordinance No. 13,166, passed March 27, 1995, and Ordinance No. 13,349, passed June 16, 1996, and Ordinance No. 13,653, passed October 19, 1998 by repealing Sections 21-34, 21-35, 21-37, 21-38, 21-40, 21-41, 21-42, 21-44, 21-45, 21-46, 21-47, 21-47.01, 21-48, 21-49 and 21-50 thereof and enacting new Sections 21-34, 21-35, 21-37, 21-42, 21-44, 21-45, 27-47, 27-47.01, relating to sewer rentals.

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. 11,700, passed July 29, 1991, and Ordinance No. 11,843, passed June 22, 1992, and Ordinance No. 11,845, passed June 22, 1992, and Ordinance No. 11,996, passed May 21, 1993, and Ordinance No. 13,166, passed March 27, 1995, and Ordinance No. 13,349, passed June 16, 1996, and Ordinance No. 13,653, passed October 19, 1998 is hereby amended by repealing Sections 21-34, 21-35, 21-37, 21-38, 21-40, 21-41, 21-42, 21-44, 21-45, 21-46, 21-47, 21-47.01, 21-48, 21-49 and 21-50 thereof and enacting new Sections 21-34, 21-35, 21-37, 21-42, 21-44, 21-45, 27-47, 27-47.01, relating to sewer rentals, as follows:

Subchapter 4. Sewer Rentals

21-34. Purpose of subchapter.

21-35. Definitions.

21-36. Duties of administrator.

21-37. Sewer service charges - Volume charge and customer service charge.

- 21.38. Repealed by Ord. 13,---.
- 21-39. Extra strength wastewater - Industrial pretreatment charges, surcharges, and penalties - Implementation by constituent communities.
- 21-39.01. Repealed by Ord. 11,700, '1.
- 21-40. Repealed by Ord. 13,---.
- 21-41. Repealed by Ord. 13,---.
- 21-42. Rate determinations; compliance with bond covenants.
- 21-43. Reserved.
- 21-44. Measurement of sewer use.
- 21-45. Private water supplies.
- 21-46. Repealed by Ord. 13,---.
- 21-47. Billing procedures; past due and delinquent accounts.
- 21-47.01. Collection procedures; discontinuance of water service; tax lien.
- 21-48. Repealed by Ord. 13,---
- 21-49. Repealed by Ord. 13,---.
- 21-50. Repealed by Ord. 13,---.
- 21-50.01. Repealed by Ord. 13,166, '1.
- 21-50.02. Expenses of collection of sewage service charges.
- 21-50.03. Inconsistent agreements or contracts.

21-34. PURPOSE OF SUBCHAPTER.

It is hereby determined and declared to be necessary and conducive to the protection of the public health, safety, welfare and convenience of the city, to levy and collect charges, rates or rentals upon all lots, parcels of real estate and buildings that are connected directly or indirectly with the wastewater treatment system and which contribute wastewater for

transportation to and treatment at the Des Moines Metropolitan Wastewater Reclamation Authority (WRA) Wastewater Treatment Facility. The proceeds of such charges or rentals so derived are to be used for the purposes of operation, maintenance, repair, replacement and debt service for such sewage treatment works.

21-35. DEFINITIONS.

Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this subchapter, have the meanings in this section.

"Account holder" refers to any person listed in Des Moines Water Works records as the person responsible for payment of sewer service charges, water service charges, solid waste collection service charges, or stormwater management service charges at a particular premises or property.

"Administrator" refers to the administrator of the wastewater treatment facility.

"City" or **"the city"** refers to the city of Des Moines.

"City manager" refers to the city manager of the city of Des Moines.

"Collection agent" refers to the Des Moines Water Works.

"Combined service account" refers to a customer account for the provision of water service, sewer service, solid waste collection service, stormwater management service, or any combination thereof, to a particular premises or property.

"Contributor" or **"User"** refers to any person, firm, corporation or other entity or organization responsible for the production of wastewater from a domestic, commercial or industrial source, which wastewater is directly or indirectly discharged into the city sanitary sewer system for treatment at the wastewater treatment facility, or which is discharged directly or indirectly to the WRA system for treatment at the wastewater treatment facility. For purposes of section 21-47, "contributor" also refers to any person, firm, corporation or other entity or organization responsible for the generation of solid waste which is subject to collection by the city pursuant to chapter 16 of this code, and to any person, firm, or corporation or other entity or organization responsible for the direct or indirect

discharge of stormwater, or surface or subsurface waters, to the city's stormwater drainage system. For purposes of sections 21-47 and 21-47.01, "user" also refers to any person, firm, corporation or other entity or organization deriving water service from the Des Moines Water Works.

"Customer" means a contributor to the city sanitary sewer system whose situs of usage is within the city of Des Moines, or a contributor whose situs of usage is outside the city of Des Moines and whose usage is pursuant to contract with the city.

"Debt service" refers to the amount of money necessary annually to pay the interest on outstanding debt and pay the principal of maturing bonded debt and loans.

"Des Moines Metropolitan WRA wastewater treatment and sanitary sewer system" or the **"WRA system"** refers to all units, now existing or hereafter constructed, consisting of outfall and interceptor sewer lines, pumping stations that transport wastewater, detention basins, and the wastewater treatment facility or facilities, designed and operated as part of the WRA system.

"Des Moines Metropolitan Wastewater Reclamation Authority" or **"WRA"** means the Constituent Communities who by joint governmental action known as the ICA Agreement and Supplements thereto are committed to create and utilize the WRA wastewater treatment facility and certain outfall and interceptor sewers of the WRA wastewater treatment system and to support the operating and capital costs thereof through payments to the WRA operating agency.

"Des Moines sanitary sewer system" or **"City sanitary sewer system"** refers to the local outfall and interceptor sewer lines, pumping stations that transport wastewater, and wastewater detention basins serving the City of Des Moines.

"Director" refers to the city engineer as director of the WRA Operating Agency and of the Des Moines sanitary sewer system.

"Domestic wastewater" means all household-type waste discharged from places of human habitation including sanitary convenience, kitchen and laundry waste. Domestic wastewater waste is further defined as waste which does not exceed Daily Maximum Limits of 300 mg/l COD, 200 mg/l BOD, 250 mg/l suspended solids, 100 mg/l Oil & Grease, 30 mg/l TKN, and 15 mg/l NH₃-N at a Discharge rate of 100 gallons per capita per day. This loading is equal to 0.25

pounds of COD, 0.17 pounds of BOD, 0.20 pounds of suspended solids, 0.083 pounds of Oil & Grease, 0.025 pounds of TKN and 0.013 pounds of NH₃-N per capita per day.

"ICA Agreement" means the intergovernmental agreement between the city and the WRA Constituent Communities, including the six Supplements to the ICA Agreement, as said Agreement and Supplements may from time to time hereafter be amended. Unless otherwise herein stated, a reference to the ICA Agreement shall be deemed to be a reference to the ICA Agreement and its Supplements.

"Management Agency" means the duly appointed management agency of the WRA.

"Manager" refers to the city manager of the city.

"Operating Agency" means the city, acting in its capacity as Operating Agency under the ICA Agreement.

"Owner" means property owner of record as reflected in the records of Polk County.

"Sewer service charge" refers to all rates, charges, fees or rentals levied against and payable by the customers, except when special contracts have been or may be negotiated by and between the city and sanitary districts, commercial establishments, industries, manufacturing plants or corporations, municipalities and other government agencies.

"User" (See **"contributor"**).

"User charge" means **"sewage service charge"**.

"WRA Constituent Community" or **"WRA Community"** means any one of the cities of Clive, Des Moines, Pleasant Hill, Urbandale, Johnston, Windsor Heights and West Des Moines, Iowa, the Urbandale-Windsor Heights Sanitary District, the Urbandale Sanitary Sewer District, Polk County and Warren County, Iowa.

"Wastewater treatment facility" or "wastewater reclamation facility (WRF)" refers to the wastewater treatment facility constructed and operated by the WRA in Des Moines at 3001 Vandalia Road, and to other such facilities as may hereafter be constructed and operated by the WRA.

21-37. SEWER SERVICE CHARGES - VOLUME CHARGE AND CUSTOMER SERVICE CHARGE.

(a) Every person whose premises are served by a connection with the wastewater treatment system of the city, either directly or indirectly, shall pay to the city the rates and charges as hereinafter established and specified for the purpose of contributing toward the costs of construction, maintenance and operation of the wastewater treatment system.

(b) Except as hereinafter provided, each customer whose property lies within the corporate limits of the city shall pay to the city, either directly or, at the direction of the city manager, through its collection agent at the agent's office, at the same time payment for city water service is made, a volume charge for domestic wastewater contribution, calculated on the basis of \$2.97 for each 1,000 gallons of water, or fraction thereof, consumed by each customer each month. The volume charge assessed monthly to all such customers shall be in addition to those charges specified in subsection (c) of this section, and in addition to the charges, surcharges, and penalties provided in section 21-39.

(c) Except as hereinafter provided, each customer whose property lies within the corporate limits of the city shall pay to the city, either directly or, at the direction of the city manager, through its collection agent at the agent's office, at the same time payment for city water service is made, a monthly customer service charge of \$4.40. The customer service charge assessed monthly to all such customers shall be in addition to those charges specified in subsection (b) of this section, and in addition to the charges, surcharges, and penalties provided in section 21-39.

(d) The director shall annually review the volume charge and the customer service charge in conjunction with the preparation of the budget for the Des Moines sanitary sewer system. If at any time the director determines that the volume charge, the customer service charge, and/or the budget for the city sanitary sewer system requires adjustment, the director shall report such determination to the city manager and city council. The city council may at any time adjust the volume charge or the customer service charge by adoption of an ordinance amending this section, and may at any time adjust the budget for the city sanitary sewer system by adoption of an appropriate resolution.

(e) Contributors whose properties lie outside the corporate limits of the city and which are served or otherwise provided sewer service pursuant to the terms of the ICA Agreement, namely those contributors residing or located within the WRA Constituent Communities, shall pay such rates and charges for sewer services as may be determined and lawfully imposed by the appropriate WRA Constituent Community. To facilitate the imposition of rates and charges that reflect the actual use of the WRA system, the director shall annually determine a monthly cost allocation for the benefit of each WRA Constituent Community in accordance with the ICA Agreement. The director shall notify each WRA Constituent Community in writing, on or before February 15 of each year, of the amount calculated to be the monthly allocation for that WRA Community, and for all other WRA Communities including the city, and shall provide reasonable supporting documentation for such allocation.

(f) Contributors whose properties lie outside the corporate limits of the city and which are served or otherwise provided sewer service pursuant to contract with the city, shall pay to the city a fee as set forth in section 21-42(c).

21-38. REPEALED BY ORD. 13,---

21-40. REPEALED BY ORD. 13,---

21-41. REPEALED BY ORD. 13,---

21-42. RATE DETERMINATIONS; COMPLIANCE WITH BOND COVENANTS.

(a) In calculating the sewer service charges imposed in section 21-37 the director shall include in the budgeted expense and revenue amounts sufficient funds as will ensure compliance with any and all rate covenants applicable to any outstanding bonds, notes or other obligations issued in connection with the construction and operation of the WRA system or the city sanitary sewer system.

(b) If in the judgment of the city manager, special conditions other than contribution of toxic pollutants affect the use of city water to the extent that the application of the volume charge provided in section 21-38 of this code would be inequitable or unfair either to the city or to a customer, a special rate shall be established by the city. A special rate in such cases shall be established only by resolution of the city council.

(c) In those cases where the special conditions are such that specially metered water is utilized for lawn or garden watering, air conditioning or similar usages whereby no part of the water so separately metered enters the sanitary sewer system, such usage of water may be exempted from sanitary sewer service charges by a permit conditioned that such water shall be so separately metered and so used. Such permits may be executed on behalf of the city of Des Moines by the city manager or his or her delegate. A copy thereof shall be delivered to the consumer, one copy retained by the issuing department, and one copy delivered to the Des Moines Water Works. This process shall not affect the rights of the Des Moines Water Works with respect to such metering or charges for water service. The city manager or his or her delegate shall collect with each application for such separate metering permit the sum of twenty five dollars (\$25.00) to partially defray the administrative costs incident to the process. Where responsibility for a specially metered location is transferred, the transferee (if the transferee, including a new owner of land, building, or tenant or other entity, wishes to continue the use of a special meter) shall apply to have the permit transferred and the application of the transferee shall be treated for all purposes as a new application, except the fee to partially defray administrative costs shall be ten dollars (\$10.00) in such cases. Such charges shall be additional to those incident to the issuance of plumbing permits for any plumbing charges which may be required.

(d) Each customer whose property or situs of wastewater usage lies outside of the corporate limits of the city and which has a contract for sewer service with the city, shall pay to the city through its collection agent, at the collection agent's office at the time payment for city water is made, or at the beginning of each calendar year, a sewer service charge computed on the basis of two times the foregoing schedule of rates applicable to customers within the city. However, contracts with customers outside of the corporate limits of the city, which include the sewage service charges, shall run until the minimum time for renegotiating under such contracts shall have expired, and payments under such contracts shall be paid directly to the city as provided therein.

(e) Any contributor who discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge from the wastewater treatment facility, or any contributor who discharges any substance which singly or by interaction with other substances causes identifiable increases in the cost of operation, maintenance, or replacement of the

wastewater treatment facility or system, shall pay for such increased costs. The charge to each contributor shall be as determined by the director, all as provided in section 16-91.22 of this code.

(f) Any contributor who discharges wastes which require an Industrial Pretreatment Permit for discharges as provided in subchapter 7 of chapter 21 of this code or that delivers wastes directly to the wastewater treatment facility as contributors licensed under subchapter 3 of chapter 21 of this code shall be billed directly by the city and shall pay the city directly for all charges imposed pursuant to subchapter 3 of this chapter.

21-44. MEASUREMENT OF SEWER USE.

(a) Each customer's sewer use and sewer service charges shall be based upon the volume of water consumed by that customer, unless an alternate means of measuring sewer use by a customer is approved or required by the director.

(b) The director may require an alternate means of measuring sewer use, such as the actual measurement or metering of wastewater discharge, if the director determines that water consumption cannot be accurately measured or is not an accurate measure of sewer use.

(c) Upon the application of a customer and upon the prior approval of the director, a customer's wastewater discharge may be separately metered or measured, utilizing such means as are approved by the director and provided at the customer's expense. Such approval may be withdrawn if the director determines that such metering or measurement does not accurately reflect actual sewer usage by that customer.

(d) The collection agent may reduce the volume charge for any month for which a customer can demonstrate that the recorded water usage was in excess of normal usage due a leak, faulty meter, inaccurate meter reading, or other event beyond the reasonable control of the customer. In each instance in which the volume charge is reduced by the collection agent pursuant to this provision, the collection agent shall fully document the circumstances justifying such reduction and the amount thereof, and shall report such reduction and the justification therefor to the director.

21-45. PRIVATE WATER SUPPLIES.

The rates set forth above shall apply in all cases in which wastewater from a privately produced water supply is discharged into the wastewater treatment system. Every person responsible for the production of water from a private water supply shall report immediately to the administrator of the wastewater treatment facility and cooperate with him or her in the determination of the quantity and character of the wastewater originating from each such respective private water supply. The administrator shall designate in these special cases any necessary means of measurements of the private water supply and resulting wastewater discharge. The meter or other means of measurements of such private water supply and resulting wastewater discharge shall be installed by and at the expense of the customer upon written order of the administrator of the wastewater treatment facility, who shall also pay the city's expense for periodic meter reading, or periodic verification of the amount of flow.

21-46. REPEALED BY ORD. 13,---

21-47. BILLING PROCEDURES; PAST DUE AND DELINQUENT ACCOUNTS.

(a) The Des Moines Water Works is hereby authorized to act as the city's agent for the billing and collection of sewer, solid waste collection, and stormwater management service charges within the city of Des Moines and for charges made to city of Des Moines sewer service contract accounts outside the city.

The Waterworks is authorized to read the water meter of each sewer customer monthly, or in accordance with its procedures and regulations, and to thereafter bill sewer customers the rates and charges provided in sections 21-38, 21-40, and 21-41 hereof, utilizing its water use data as appropriate to calculate each billing. As to sewer customers who do not derive water service from the Water Works, the Water Works shall bill such customers for sewer service as determined and directed by the administrator pursuant to section 21-45 of this chapter.

The Water Works is also authorized to bill each solid waste contributor the charges for solid waste collection service provided in section 16-96 of this code. The city shall periodically provide to the Water Works an updated listing of elderly and disabled solid waste contributors entitled to the reduced rate for such service provided in section 16-96(c).

The Water Works is authorized to bill the owners or occupants of all properties within the city, except exempt properties, the

charge for stormwater management services, all as provided by subchapter 8 of chapter 21 of this code.

(b) Payments for sewer, solid waste collection, and/or stormwater management services are due as of the date the billings are mailed, which date shall be the billing date. Water, sewer, solid waste collection, and/or stormwater management service charges will be billed to contributors and customers in a combined service account billing statement.

(c) If full payment of all charges billed in a combined service account billing statement is not received within forty (40) days after the billing date, the contributor's or customer's combined service account shall be considered delinquent, and the Water Works shall give notice, as hereafter provided, that the combined service account is delinquent and that water service to the premises for which the account is delinquent will be discontinued if the delinquent charges are not paid within 50 days after the billing date.

21-47.01. COLLECTION PROCEDURES; DISCONTINUANCE OF WATER SERVICE; TAX LIEN.

(a) If full payment of all charges billed in a combined service account billing statement is not received within fifty (50) days after the billing date, the Des Moines Water Works is authorized to thereupon discontinue water service to that premises or property.

(b) Water service shall not be discontinued at any premises or property as herein provided unless notice of delinquency has been given to the account holder. If the account holder is a tenant, and if the owner or landlord has requested notice prior to discontinuance of water service, the Water Works shall also send notice of delinquency to the owner or landlord. Notice of delinquency shall be sent to such persons by first class mail to their last known addresses as reflected in the computer data base account records of the Water Works or in the Polk County Auditor's real estate computer data file. The notice of delinquency shall include the delinquent charge or charges, and shall indicate that if payment of the total amount is not made by a date certain (corresponding to the 50th day after the billing date for that delinquent account), water service to the premises or property at which the account is delinquent will be discontinued. The notice shall further indicate that if the contributor or customer believes that his or her billing or account balance is in error, the contributor or customer has the

right to appeal the notice of delinquency to a Water Works customer service representative, who shall be empowered to hear such appeals, and, after investigating the status of said account with the appropriate city department if necessary, to adjust account balances as the facts of each appeal may warrant.

(c) The physical disconnection or discontinuance of water service to a particular premises as above provided, or the reconnection of water service, shall be performed by the Water Works according to its established practices and procedures, and the Water Works may charge to such account its established fees or charges for disconnection and/or reconnection.

(d) If full payment of all charges billed in a combined service account billing statement, including late payment charges, is not received within eighty seven (87) days after the billing date, and it is determined by Water Works that said account is otherwise uncollectible due to the absence or removal of the account holder or other cause, the Water Works shall send a notice of pending lien to the account holder. If the Water Works computer data base file for that account indicates that the account holder is a tenant, and includes the owner's or landlord's name and address, the Water Works shall also send notice of pending lien to the owner or landlord. The notice of pending lien shall be sent to such persons by first class mail to their last known addresses as reflected in the computer data base account records of the Water Works or in the Polk County Auditor's real estate computer data file. The notice of pending lien shall include the delinquent charge or charges, and shall indicate that if payment of the total amount is not made by a date certain (corresponding to the 100th day after the billing date for that delinquent account), the delinquent charge or charges will be certified to Polk County as a lien against the property.

(e) If, at anytime prior to the 100th day after the billing date for a delinquent tenant combined service account, the owner or landlord of the property or premises involved shall give written notice of tenant liability to Water Works as hereafter provided, and shall cause a deposit to be made with Water Works in an amount not exceeding the usual cost of ninety days of water, sewer, solid waste collection, and/or stormwater management service to that property or premises, such property or premises shall thereafter be exempt from the imposition of a lien as hereafter provided. The written notice of tenant liability shall contain the name of the tenant responsible for water, sewer, solid waste collection, and/or stormwater management service

charges, the address that the tenant occupies or is to occupy, and the date that the tenancy began or is to begin. A change in tenant shall require a new written notice of tenant liability and deposit to be provided. When the tenant moves from the rental property, the Water Works shall return the deposit if all special charges, service charges, and sales tax have been paid in full, and the lien exemption shall be lifted from the rental property. The lien exemption for rental property does not apply to charges for repairs to a water service if the repair charges become delinquent.

The deposit herein provided shall be applied to pay sales tax, special charges, service charges, and late payment charges which are delinquent on and as of the 100th day after the billing date for the delinquent account. Any balance owing on said account after application of the deposit as above provided shall be carried forward and billed on the next billing statement, and said property or premises shall not thereafter be exempt from the lien provided in section 384.84 of the Iowa Code.

(f) If full payment of all charges billed in a combined service account billing statement, including late payment charges, is not received within one hundred (100) days after the billing date, the Water Works shall prepare an assessment schedule listing such unpaid charges therein. A \$5.00 administrative processing fee shall be charged to each delinquent account at the time it is included in the assessment schedule, which amount shall be separately identified on the assessment schedule and included in the amount being assessed. The Water Works shall prepare an assessment schedule each month, listing all delinquent sewer, solid waste collection, and stormwater management service charges, and late payment charges, which accrued in the prior month. Such assessment schedule shall also identify each delinquent charge by name of the account holder, or property owner, shall identify each property for which the sewer, solid waste collection, and/or stormwater management service charge is delinquent, and shall show the delinquent charges and the administrative processing fee to be assessed against each such property. The Water Works shall forward the completed assessment schedule to the city's engineering department, which shall process said schedule for presentation to the city council. Upon council approval thereof, the city clerk shall certify and file said assessment schedule with the Polk County Treasurer for filing of liens against the properties in the amounts shown thereon as provided in section 384.84 of the Iowa Code.

(g) Such lien shall be enforced until payment in full of the delinquent charges and the administrative processing fee shown on the assessment schedule is made at the office of the County Treasurer.

21-48. REPEALED BY ORD. 13,---

21-49. REPEALED BY ORD. 13,---

21-50. REPEALED BY ORD. 13,---

Sec. 2. This ordinance shall be published immediately as provided by law, and shall be in full force and effect from and after July 1, 2000.

FORM APPROVED:

Terrence L. Timmins, Deputy City Attorney

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Attest:

I, Donna Boetel-Baker, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance (Roll Call No. 00-668), passed by the City Council of said City at a meeting held March 6, 2000, signed by the Mayor on March 6, 2000, and published as provided by law in the Business Record on March 20, 2000. Authorized by Publication Order No.6433.

Donna Boetel-Baker, CMC/AAE, City Clerk