

CHAPTER 36**INDUSTRIAL WASTE CONTROL**

36.01 INTEGRATED COMMUNITY AREA. The city of Windsor Heights is a party to the Integrated Community Area (ICA) Agreement dated February 19, 1979. Pursuant to this Agreement, the City agrees to cooperate with other constituent communities to amend and modify the ICA Agreement and Addendum and Supplements in order to provide effective wastewater treatment to utilize certain outfall and interception sewers of the wastewater treatment system, and to support operating and capital costs to the ICA Operating Agency. The City approved the Fourth Supplement to the ICA Agreement on April 20, 1992, as originally presented and, on May 18, 1992, amendments to the Fourth Supplement. The adoption of the Agreement and Supplements is intended to comply with federal and state regulations concerning industrial waste and the enforcement of such regulations by local political subdivisions.

36.02 INDUSTRIAL WASTE CONTROL REGULATIONS. Ordinance No. 11,716, enacted by the City Council of the City of Des Moines on September 16, 1995, which ordinance is now codified as Subchapter 7, Industrial Waste, of Chapter 21 of the Des Moines Municipal Code, be and the same is hereby enacted and adopted as an ordinance of the City of Windsor Heights. The provisions of Ordinance No. 11,716, and all amendments to said Ordinance, as adopted by the City Council of Windsor Heights on March 2, 1992, are incorporated herein by reference as if fully set forth herein.

36.03 ENFORCEMENT. The provisions of the ICA agreement are enacted to aid in the enforcement of pretreatment regulations. The City of Des Moines is designated as ICA Operating Agency - the enforcement agency under this Chapter. Employees, agents and officers of the City of Des Moines, while acting to enforce the provisions of this Chapter for the ICA Operating Agency, are empowered to make such inspections, issue such orders or permits and take such actions within the corporate boundaries of the City of Windsor Heights as are authorized by this Chapter. The ICA Operating Agency is also authorized to impose and collect all fees or penalties authorized by this Chapter and the ICA Operating Agency is authorized to directly bill and collect from contributors penalties, fees charges and surcharges. The failure to pay any fee, charge, penalty or surcharge is a municipal infraction and shall also be grounds to discontinue sewer service. The enforcement of this Chapter in the City of Windsor Heights is not dependent upon passage of this or a similar ordinance by other cities of ICA constituent communities.

36.04 JURISDICTION. The provisions of this Chapter are applicable in their entirety to all users and contributors of wastewater, directly or indirectly, into the wastewater treatment works of the City of Des Moines or into the wastewater collection system of the City of Windsor Heights, or into the wastewater collection and treatment system of the City of Des Moines or the ICA without regard to whether the physical facilities of such contributors, or the physical portion of the wastewater collection system is situated within or outside the corporate limits of the City of Windsor Heights. Service shall be extended outside the City of Windsor Heights only pursuant to contract, which

contract shall subject each such contract user to the provisions of this Chapter upon terms acceptable to the administrator.

Unless otherwise expressly provided by contract providing for extension of service outside of the City of Windsor Heights, as approved by the Administrator, such city extended services and each particular thereof shall be subject to the provisions of this Chapter.

36.05 INSPECTION, SAMPLING, AND RECORD KEEPING AUTHORITY.

Users shall permit authorized representatives or agents of the City of Des Moines to enter upon all properties and all parts of the premises within the corporate limits of the City of Windsor Heights, within the extended jurisdiction of the City of Windsor Heights, or upon properties of users with wastewater discharge permits for the purposes of inspection, sampling, records examination, records copying, or the performance of any of their duties. This shall include the right to set up, on the user's property, such devices as are necessary to conduct sampling, inspection, compliance monitoring, or metering operations as may be required in pursuance of the implementation and enforcement of this Chapter.

36.06 SIGNIFICANT NONCOMPLIANCE (SNC). Any violation of pretreatment requirements (i.e., but not limited to: limits, sampling, analysis, reporting, meeting compliance schedules, and regulatory deadlines) is an instance of noncompliance for which the user is liable for enforcement, including penalties and injunctive relief. Instances of SNC are user violations which meet one or more of the following criteria:

1. Violations of wastewater discharge limits.
 - A. Chronic violations. Sixty-six percent (66%) or more of the measurements exceed the same daily maximum limit or the same average limit in a 6-month period (any magnitude of exceedance).
 - B. Technical Review Criteria (TRC) violations. Thirty-three percent (33%) or more of the measurements exceed the same daily maximum limit or the same average limit by more than the TRC in a 6-month period. (e.g., limit X TRC = the point at which a violation becomes a TRC violation) There are two groups of TRCs:

Group I for conventional pollutants (BOD, TSS, O&G)	TRC - 1.4
Group II for all other pollutants	TRC - 1.2
 - C. Any other violation(s) of a wastewater discharge permit limit (average or daily maximum) that the administrator believes has caused, alone or in combination with other discharges, interference

(including slug loads) or pass through; or endangered the health of the public or of personnel of the City of Des Moines or the City of Windsor Heights.

D. Any discharge of a pollutant that has caused imminent endangerment to human health-welfare or to the environment and has resulted in the exercise of emergency authority to halt or prevent such a discharge.

2. Violations of compliance schedule milestones, contained in a wastewater discharge permit or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.
3. Failure to provide reports for compliance schedules, self-monitoring data, or any other report required by the POTW within 30 days from the due date.
4. Failure to accurately report non-compliance.
5. Any other violations or group of violations that the administrator considers to be significant.

When a user is in SNC, the Administrator is directed to:

1. Report the information to Iowa Department of Natural Resources as part of the annual pretreatment performance summary of permitted user noncompliance;
2. Include the user in the annual public notification;
3. Address SNC through appropriate enforcement actions or document in a timely manner the reasons for withholding enforcement.

36.07 APPEALS. Procedures to appeal any act or decision made pursuant to this Chapter and Ordinance No. 11,716 are set forth in Section 21-118 of said Ordinance. Final appeal for users located in the City of Windsor Heights will be heard by a three person ICA appeal committee composed of the ICA representative from the community where the discharge is or will occur, the chairperson of the ICA management agency, and an ICA representative from another constituent community to be appointed by the chairperson. In the event of the chairperson's conflict of interest or unavailability, the chairperson shall appoint an ICA representative from another constituent community as a member of the appeal committee. The ICA representative for the city of Des Moines shall not be appointed to serve on the appeal committee. Final appeals shall be decided by majority vote of the city council or the appeal committee. If the appeal committee affirms the action of the city manager or his or her designee, continuing the suspension or revocation, the appeal

committee shall so state and order in its written decision. The City Clerk shall report in the official minutes the action taken by the City Council.

36.08 SEVERABILITY. If any provision of this ordinance shall be deemed to be invalid or unlawful for any reason by a court of competent jurisdiction, the remaining provisions hereof shall be severable from said invalid or unlawful provisions and shall remain in full force and effect.

EDITOR'S NOTE

The City Council of the City of Windsor Heights adopted the City of Des Moines Industrial Waste Ordinance No. 11,716 on March 2, 1992. The Windsor Heights Ordinance No. 92-2 was published concurrently with Des Moines Ordinance No. 11,716.