


CITY COMMISSION POLICY

GRAND RAPIDS  MICHIGAN	NUMBER: 1000-21	HISTORY
	DATE: March 20, 2001	FILE # DATE
	FILE NUMBER: 68423	
	DEPARTMENT: PUBLIC WORKS	

SUBJECT: **RULES AND REGULATIONS FOR ENFORCEMENT OF COMBUSTIBLE WASTE AND SOLID WASTE ORDINANCE PROVISIONS REGARDING COLLECTION**

PURPOSE: To set forth a procedure for enforcement of Subsection 2 and 3 of Section 2.10 of Chapter 25 of Title II, entitled "Combustible Waste and Solid Waste" of the City Code.

To establish processes for tracking complaints, issuing waivers, and administering other provisions relative to this ordinance in order to ensure reasonably quiet collection of waste and reasonable commerce.

POLICY:

1. DEFINITIONS

- a. Incident: Each incident shall be a separate occurrence, except that multiple reports of the same incident regarding activities at the same property shall be considered a single event for purposes of this policy.
- b. License Review Procedures: Those procedures established by Chapter 91 of Title VII of the City Code entitled "Licensing and Regulation Generally."
- c. Ordinance: Shall mean Ordinance 2001-06 adopted February 20, 2001.
- d. Verified Noise Complaint: A complaint received by the City Clerk regarding excessive noise of waste collection activities that is verified to be related to collection activities on the regular or special service date for a property.

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- e. Verified Hours of Collection Complaint: A complaint received by the City Clerk regarding violation of the permitted hours of collection for that zoning district that, upon investigation, is verified to be related to collection activities on the regular or special service date for a property.
- f. Verified Distance Complaint: A complaint received by the City Clerk regarding violation of the 100 foot distance rule of collection that, upon investigation, is confirmed.

2. COMPLAINT PROCESS

The City Clerk, as the licensing agent, will document and track, on an annual basis, complaints received regarding waste hauling activities within the City.

The ordinance provides for three specific areas of compliance by waste haulers:

1. The time of day of collection as provided in the ordinance based on the zoning of the collection site;
2. Noise from a waste hauler's vehicle upon collection of waste. The ordinance and these rules do not apply to the transport of solid waste; and
3. The distance of the collection site (at least 100 feet) from any dwelling unit located on a residentially zoned lot.

Upon receipt of a complaint, the City Clerk shall determine which area(s) of compliance are in question and proceed to verify the validity of the complaint to the extent possible. Verification methods may include having Environmental Protection Department staff take measurements when distance from a residence is in question and having Zoning Department staff check the most up-to-date zoning records to ensure the proper time and distance requirements are being enforced.

If it is determined that a violation exists, the City Clerk shall notify the waste hauler of the specific collection site and violation. During any calendar year, the City Clerk shall track all complaints regarding any one collection site by any one waste hauler.

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If the City receives verified complaints of three (3) or more separate incidents of excessive noise or hour of operation violations¹ within any calendar year at any one location, the City Manager, or his/her designee, shall notify the waste hauler that they must permanently comply with sub-section (2) of Section 2.10 of the ordinance at the location from which the excessive noise emanated or where operations were conducted during prohibited hours in a zoned district which is subject to the following collection hours:

- a. *11 PM Saturday to 9 AM Sunday.*
- b. *11PM Sunday to 7 AM Monday.*
- c. *11 PM Monday to 7 AM Tuesday.*
- d. *11 PM Tuesday to 7 AM Wednesday.*
- e. *11 PM Wednesday to 7 AM Thursday.*
- f. *11 PM Thursday to 7 AM Friday.*
- g. *11 PM Friday to 9 AM Saturday.*
- h. *Federal holidays – 11 PM the previous evening to 9 AM.*
- i. *Saturdays following a federal holiday observed on a weekday – 11 PM the previous evening to 7 AM.*

Licensed waste haulers have a right to appeal the City Manager's decision regarding noise and hour of operation violations of this ordinance to the City Commission. Appeals shall be processed according to Section 4 below.

If, after being required to permanently comply with sub-section (2) of Section 2.10 of the ordinance at a specific collection site, a verified complaint is received of excessive noise or inappropriate collection time at that same site, the City Clerk shall proceed with established license review procedures which could result in penalties up to and including fines or license revocation. The City Manager, or his/her designee, shall be notified of the action taken.

If the City receives a verified complaint of not being in compliance with the distance (100 feet) from a residence, the waste hauler shall be so notified by the City Clerk. If a second complaint is received by the City of a separate incident at the same location within the same calendar year, the City Clerk shall proceed with established license review procedures which could result in penalties up to and including fines or license revocation. The City Manager, or his/her designee, shall be notified of the action taken.

¹ A waste hauler may be held harmless for any single incident if they have relied on an inaccurate City-published zoning map. The waste hauler will be required, however, to comply with the appropriate zoning requirement once the discrepancy is reported.

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3. WAIVER PROCESS

A waiver permit may be issued for any specific collection site anywhere within the City. Such request for waiver shall be submitted to the City Clerk on an application form provided by the Clerk's Office.

Upon receipt of application, the City Clerk shall notify all affected neighborhood associations and owners of property within 100 feet of the subject property, allowing them seven (7) days to respond to the City Clerk and comment on the application. The City Clerk shall also forward the application to the Traffic Safety Department and Police Department for site review to determine if the requested waiver is reasonably necessary and if the waiver can be reasonably expected not to interfere with neighborhood life. Said departments shall return the application with their recommendation within seven (7) days to the City Clerk. City Clerk shall then place any response from the neighborhood association(s) and/or affected property owner(s) with the application and the departmental recommendation(s) and forward the packet to the City Manager, or his/her designee, for approval/disapproval.

The City Manager, or his/her designee, will then return the approved/disapproved application to the City Clerk. Upon receipt, the City Clerk shall notify the applicant and any affected neighborhood association and/or property owner of the disposition of the application and, if approved, issue the waiver. City Manager's decision on waivers is final.

An authorized waiver for any specific collection site shall state that "waiver is not intended, nor shall it be construed, as authorizing the violation of the City's Noise Ordinance or any other City ordinance by waste hauler operations."

An authorized waiver that has been approved for any specific collection site shall be in effect until such time as the waste hauler (applicant) no longer collects waste at this site. Since waivers are not transferable, any subsequent waste hauler must reapply. Upon receipt of an application for a waiver for a collection site which was previously granted a waiver, the City Clerk may, at his/her discretion, forego the notification of the neighborhood associations and property owners and the site review. The application, with evidence of previous approval shall be forwarded directly to the City Manager, or his/her designee, for approval/disapproval of the waiver.

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4. APPEAL PROCESS

- a. For Enforcement of Excessive Noise and Hours of Operation: A waste hauler found in violation of Section 2.10(3)(c) of the ordinance may, upon their request, be afforded an appeal before the City Commission. Said hearing shall be scheduled by the City Clerk upon receipt of a letter of request from the affected waste hauler and shall be heard at the time regularly reserved for public hearings during a regular City Commission meeting. Applicant shall have full access to information upon which the recommendation under appeal was based and applicant shall be allowed to comment on the recommendation. The City Clerk shall notify the appellant, property owner, neighborhood association, and directly adjacent property owners of the hearing date. All other interested persons shall also be allowed to comment upon the recommendation. The City Commission may affirm the staff decision or may itself make such other determination, based on the information presented, as it sees fit.
- b. For Other provisions of Ordinance 2001-06: Appeals of such other enforcement decisions arising from this ordinance shall be processed through the City Clerk's established license review procedures which could result in penalties up to and including fines or license revocation.