

"City of Choice"

ORDINANCE NO. 1293

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CIBOLO, TEXAS AMENDING CODE OF ORDINANCES CHAPTER 74 TRAFFIC AND VEHICLES; BY ADDING ARTICLE XIII TRANSPORTATION OF SLUDGE WASTE; AUTHORIZING THE CITY MANAGER TO IMPLEMENT THE PROVISIONS OF THIS ORDINANCE; PROVIDING FOR UNLAWFUL ACTS AND EXEMPTIONS; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; ESTABLISHING CERTAIN FEES AND FINES; PROVIDING FOR SEVERABILITY; REPEALING ANY OTHER CODE PROVISIONS, ORDINANCES, OR PARTS OF ORDINANCES, AND OTHER PROVISIONS IN CONFLICT HERewith; INCORPORATING RECITALS; AND ADOPTING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Cibolo, Texas desires to amend Municipal Code of Ordinances Chapter 74 *Traffic and Vehicles*, by adding Article XIII *TRANSPORTATION OF SEPTIC SLUDGE* in order to preserve, protect, and promote public health and safety; and

WHEREAS, the pumping and hauling of septic sludge elevates the potential for spillage of untreated wastewater due to the increased number of times that this wastewater is handled as well as possible equipment malfunctions, potentially affecting local ground and surface water resources along with local flora and fauna; and

WHEREAS, the pumping and hauling operations present safety hazards for the neighborhoods in which that are occurring and the City of Cibolo ("City") through which they are transporting, creating unnecessary heavy vehicle traffic; and

WHEREAS, the City has exclusive control and power over the streets, alleys, and public grounds and highways of the City pursuant to Transportation Code §311.001; and

WHEREAS, Title 30 TAC Chapter 312 Subchapter G and Health & Safety Code § 366 provide for minimum state standards for regulating the transportation of septic sludge; and

WHEREAS, Health & Safety Code § 366.032(a)(2) allows for more strict local regulation of on-site sewage disposal regulation; and

WHEREAS, City Council has determined the establishment of more stringent local regulations for the transportation of sewage is necessary to protect the general public; and

WHEREAS, a permit system is deemed most appropriate means of regulations which requires the assessment of fees to offset the cost of enforcing these more local stringent standards; and

WHEREAS, it is necessary for the City to adopt requirements and regulations which will enable the officers and employees of the City to respond in a manner consistent with State law; and

WHEREAS, the rules, regulations and requirements established by ordinance may not be inconsistent with State law; and

WHEREAS, the City Council has determined that it is in the best interest of the City to regulate traffic within the City in accordance with State law.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CIBOLO, TEXAS THAT:

SECTION ONE. AMENDMENT. Municipal Code of Ordinances Chapter 74 *Traffic and Vehicles* is amended by adding Article XIII *TRANSPORTATION OF SEPTIC SLUDGE* and shall read as follows:

74 - 399: DEFINITIONS.

- (1) *Domestic septage*--Either liquid or solid material removed from a septic tank, cesspool, portable toilet, Type III marine sanitation device, or similar treatment works that receives only domestic sewage. Domestic septage does not include liquid or solid material removed from a septic tank, cesspool, or similar treatment works that receives either commercial wastewater or industrial wastewater and does not include grease removed from a grease trap
- (2) *Domestic sewage*--Waste and wastewater from humans or household operations that is discharged to a wastewater collection system or otherwise enters a treatment works.
- (3) *Generator* - a person or entity who owns or operates a facility that produces, receives, or stores sewage sludge, domestic septage, domestic sewage, or grit trap waste.
- (4) *Grit trap* - A unit/chamber that allows for the sedimentation of solids from an influent liquid stream by reducing the flow velocity of the influent liquid stream. In a grit trap, the inlet and the outlet are both located at the same vertical level, at, or very near, the top of the unit/chamber; the outlet of the grit trap is connected to a sanitary sewer system. A grit trap is not designed to separate oil and water.

- (5) *Grit trap waste* - Waste collected in a grit trap. Grit trap waste includes waste from grit traps placed in the drains prior to entering the sewer system at maintenance and repair shops, automobile service stations, car washes, laundries, and other similar establishments. The term does not include material collected in an oil/water separator or in any other similar waste management unit designed to collect oil.
- (6) *Permit* - A Sludge Waste Transporter permit issued by the City of Cibolo Permit Department authorizing the transportation of Sludge Waste within the City Limits of Cibolo. .
- (7) *Sewage sludge* - Solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in treatment works. Sewage sludge includes, but is not limited to, domestic septage, scum, or solids removed in primary, secondary, or advanced wastewater treatment processes; and material derived from sewage sludge. Sewage sludge does not include ash or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works.
- (8) *Sludge waste* – Means any of the following types of waste: sewage sludge, domestic septage, chemical toilet waste, grease-trap waste, grit-trap waste or water-treatment sludge.
- (9) *Transporter* - Any person or entity who collects, conveys, or transports sewage sludge, water treatment plant sludge, grit trap waste, grease trap waste, chemical toilet waste, and/or septage by roadway, ship, rail, or other means.
- (10) *Vehicle* means a motor vehicle, trailer, equipment, or device specially designed and constructed to transport Sludge Waste on a public street.

74 - 400: VEHICLE REQUIREMENTS AND INSPECTION

- (A) A Transporter must obtain a City-issued permit for each vehicle used to haul Sludge Waste.
- (B) A vehicle or other equipment used to transport Sludge Waste must be:
 - (1) constructed, operated, and maintained to prevent:
 - (a) the loss of Sludge Waste; or
 - (b) the creation of an unsanitary or unsafe condition;
 - (2) licensed and inspected annually under Title 7 (*Vehicles and Traffic*) of the Texas Transportation Code;
 - (3) identified with the registration number required by state regulation;
 - (4) equipped with a valve drip cap to minimize leakage;

- (5) equipped with a sight glass or tube and other measuring device that permits visual inspection of the Sludge. Waste contained in the vehicle;
 - (6) equipped with a device to measure each load of Sludge. Waste received from a generator; and
 - (7) equipped with a single waste tank which shall be of a minimum 1,000 gallon capacity, permanently mounted on the vehicle and designed to transport wastes. Portable tanks or other containers temporarily installed in vehicles are prohibited. This subsection (8) does not apply to vehicles used solely to transport chemical toilet wastes; and,
 - (8) the vehicle shall be clean and odor free.
- (C) The vehicle and operator must comply with 30 TAC Chapter 312 Subchapter G, Section 312.144.

74 - 401: TRANSPORTATION ON CITY OWNED STREETS.

- (A) A person commits an offense by transporting Sludge. Waste through the City of Cibolo that was collected and/or generated wholly outside of the city limits of the City of Cibolo limits and which was disposed of outside the city limits of the City of Cibolo.
- (B) It is an affirmative defense to an enforcement action for a violation of subsection (A) above, that:
 - (1) The person was disposing of the person's own waste from the person's own recreational vehicle, boat or travel trailer; or
 - (2) The person was transporting Sludge Waste for the purpose of directly traveling to or from a generator located within the city limits; or
 - (3) The person was transporting Sludge Waste on the following streets or highways
 - (a) FM78 within the city limits;
 - (b) FM 1103 within the city limits; and
 - (c) Interstate 10 within the city limits.

74 - 402: TRANSPORTER RESPONSIBILITIES.

- (A) A transporter shall be registered with the TCEQ pursuant to Title 30 TAC Chapter 312 Subchapter G, Section 312.142
- (B) A transporter shall not operate a vehicle that fails to meet the requirements of § 74 - 400: *VEHICLE REQUIREMENTS AND INSPECTION* subsection (B) above.
- (C) A person commits an offense if the person engages in the transportation of Sludge Waste and fails to comply with any provision of this ordinance.

- (D) No person shall dump, spill, leak, pump, pour, emit, empty, discharge, leach, dispose, or otherwise introduce or cause, allow, or permit to be introduced any domestic sewage or septic tank waste on to city streets, alleys, right-of ways or drainage systems

74 - 403: DISCHARGE OR SPILL.

If a discharge or spill occurs during collection or transport of Sludge Waste, a Transporter must take appropriate action to protect public health and the environment. No later than 24 hours after a discharge or spill, the Transporter shall notify local law enforcement authorities of the discharge or spill and take any action required or approved by a federal, state or local official with jurisdiction. Notifications under this section shall, at a minimum, provide the following:

- (A) Time and date the spill occurred.
- (B) Amount spilled.
- (C) Location of spill.
- (D) Type of spill.
- (E) Any corrective actions taken by the Transporter.
- (F) Any other conditions that would indicate the need for an emergency spill response team.

74 - 404: PERMIT REQUIRED.

A person shall obtain a Transporter's permit under this chapter before the person operates a vehicle to transport Sludge Waste within the City Limits, or causes, allows, or permits a vehicle owned by the person to transport Sludge Waste on any streets or highways within the city limits except for the following specifically designated streets highways: (1) FM78 within the city limits; (2) FM 1103 within the city limits; and (3) Interstate 10 within the city limits.

74 - 405: PERMIT APPLICATION.

- (A) A person seeking a permit must complete and file an application for a permit with the City of Cibolo Permit Department on the form provided by the City of Cibolo Permit Department and pay an application and permit fee.
- (B) An application for a permit under this section must include: name, title, address, and telephone number of the authorized representative of the applicant;
 - (1) Description or address of this business location;
 - (2) Description of the activity and type of liquid waste transported;
 - (3) Proof that each vehicle is covered by insurance as prescribed in Section 74 - 408: *Insurance Requirements*
 - (4) Confirmation that the applicant, or if the applicant is a business entity, a partner or corporate officer in the business entity, has not been convicted of a violation directly related to this article or 30 TAC Chapter 312 Subchapter G; and;
 - (5) Confirmation that each vehicle to be used to transport hauled liquid waste complies with the requirements prescribed in Section 1 Section 74 - 400: *Vehicle Requirements and Inspection*); and
 - (6) A list with the name and valid driver's license number of each vehicle operator.

- (C) The City of Cibolo Permit Department shall make a determination on an application for a permit under this chapter on or before the 30th day after the date the application was filed.
- (D) The City of Cibolo Permit Department may require additional application information as necessary to determine compliance by the applicant.
- (E) The application must be signed by the individual applicant or by the applicant's authorized representative.
- (F) A permit issued under this chapter is nontransferable.

74 - 406: DETERMINATION ON APPLICATION.

- (A) The City of Cibolo Permit Department may not grant a permit under this article unless the applicant has complied with the requirements of 74 - 405: *Permit Application* above. In making a determination relating to an offense under 74 - 405: *Permit Application* Subsection (C)(2), the City of Cibolo Permit Department may consider the factors prescribed in Section 53.022 (*Factors in Determining Whether Conviction Relates to Occupation*) of the Texas Occupations Code.
- (B) If the City of Cibolo Permit Department rejects an application, the City of Cibolo Permit Department shall send the applicant a written explanation of the basis of the rejection by certified or registered mail to the mailing address provided on the application.

74 - 407: PERMIT FEES, EXCEPTIONS.

- (A) Except as provided in Subsection (B), a person must pay the vehicle permit fee established by separate ordinance.
- (B) This section does not apply to a vehicle operated by the City, another municipality or a public school system.
- (C) The City of Cibolo Permit Department may assess an additional fee for re-inspection of a vehicle.
- (D) The City Council shall set the fees authorized under this chapter by separate ordinance.
 - a. The interim permit fee until such separate ordinance is adopted shall be \$150.00 per year.

74 - 408: INSURANCE REQUIRED.

- (A) The owner or operator of a permitted vehicle shall file with the City of Cibolo Permit Department a commercial automobile insurance policy insuring the public against bodily injury and property damage issued by an insurance company licensed to do business in Texas for each permitted vehicle with a minimum:

- (1) combined single limit of \$500,000; or
 - (2) split limit of \$250,000 for each person, \$500,000 for each occurrence, and \$100,000 property damage.
- (B) An insurance policy under this section must include a notice of cancellation clause stating that the policy may not be cancelled or amended before the 30th day after the City of Cibolo Permit Department received written notice of cancellation, amendment, or non-renewal.
- (C) The City of Cibolo Permit Department may not issue a permit for a vehicle until the owner or operator has provided proof of insurance under this section.

74 - 409: TERM AND RENEWAL.

- (A) A permit issued under this division shall expire one year from date of issuance and must be renewed annually.
- (B) A person holding a permit under this article shall apply for a new permit no later than the 30th day before the expiration date of the permit.

74 - 410: PERMIT REVOCATION.

- (A) If a permittee fails to comply with this article or applicable state law, the City of Cibolo Permit Department may revoke a permit issued under this article for a period of one year.
- (B) The City of Cibolo Permit Department shall provide a Transporter written notice of a hearing on revocation of the hauler's permit on or before the 10th day before the hearing. A notice under this section shall include the basis of the proposed action. The City of Cibolo Permit Department may promulgate procedural rules for a hearing under this section.
- (C) Following a hearing, the City of Cibolo Permit Department shall provide the Transporter with the Permit Department's decision in writing, including the reasons for a revocation.
- (D) A permittee whose permit has been revoked may not reapply for a permit for one year after the date of the revocation.

74 - 411: APPEAL.

An applicant or permittee whose application is denied or permit is revoked by the City of Cibolo Permit Department under the provisions of this article may appeal the Permit Department's decision to City Council.

74 - 412: NUISANCES.

A vehicle transporting Sludge Waste which is leaking or spilling from such vehicle is hereby declared to be a nuisance.

74 - 413: PENALTY.

Any person, firm, association, delegation or group who violates any provision of this article shall be guilty of a misdemeanor and, upon conviction, shall be punished according to


the general penalties described in Section 1-13. Each day any violation continues to exist shall constitute a separate offense

SECTION TWO. SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or illegal, such decision shall not affect the validity of the remaining sections of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared void.

SECTION THREE. FINDINGS. The City Council finds all of the above recitals to be true and correct and incorporates the same in this Ordinance as findings of fact.

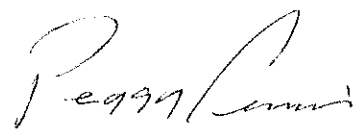
SECTION FOUR. EFFECTIVE DATE. This Ordinance shall be effective immediately upon publication of notice as required by law.

PASSED AND APPROVED this 11 day of November, 2019.




Stosh Boyle
Mayor

ATTEST:



Peggy Cimics, TRMC
City Secretary

APPROVED AS TO FORM:



Frank J. Garza
City Attorney

