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## DIVISION 3. - FATS, OILS AND GREASE REGULATIONS

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### Subdivision I. - In General

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#### **Sec. 40-77. - Definitions.**

For the purposes of this division, certain terms and words are hereby defined. Where words are not herein defined, but are defined in [section 1-2](#), those words shall have the meaning as defined therein. Unless otherwise defined herein, words related to water quality shall be as defined in the latest edition of Standard Methods for Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association, and the Water Environment Federation. Unless otherwise defined herein, words related to construction shall be as defined in this Code and in the latest adopted applicable editions of the state codes applicable to building construction adopted pursuant to state law. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*25 percent rule* means the requirement for FOG interceptors to be maintained such that the combined FOG solids accumulation does not exceed 25 percent of the design hydraulic capacity of the FOG interceptor.

*Architectural or historical restrictions* means a building or structure in the city that is 100 years or older and has special historical or esthetic interest or value.

*Backflow* means a reversal of normal flow in a system caused by a negative pressure (vacuum or partial vacuum) in the supply piping or other condition that reverses the normal direction of flow.

*Baffle* means a retention wall three-quarters of the length of the chamber nearer to the outlet.

*Best management practices* means a schedule of activities, a prohibition of practices, maintenance procedures, and other management practices to prevent or reduce the introduction of fats, oils, and greases

into the sewer system. These practices may vary by site, but produce the same reductions in fats, oils, and greases in the sewer system.

*Change in operations* means any change in the ownership, food types, or operational procedures of a food service establishment.

*City* means the city and/or the mayor and council of the city.

*Compliance inspector* means a person authorized by the city to inspect any existing or proposed wastewater generation, conveyance, processing, and or disposal facilities.

*Extreme economic hardship* means a cost to comply with the requirements of this division that exceeds \$50,000.00.

*Fat, oil and grease (FOG)* means any substance such as a vegetable or animal product that is used in, or is a byproduct of, the food preparation process, that turns or may turn viscous or solidifies or may solidify with a change in temperature or other conditions.

*Fixtures* means a pot sink, prerinse sink, vegetable sink, meat sink, mop sink, soup kettles, wok stations, floor drains, automatic hood wash units, garbage disposals, trash compactors, dishwashers, and any other similarly functioning plumbing fixtures.

*Flow* means volume of wastewater moving in a certain direction.

*Flow control device* means a mechanism installed to control flow of hydraulic levels of FOG into an interceptor.

*FOG control program* means a program to reduce and/or control the discharge of fats, oils, and grease into the sewer system by educating and regulating food service establishments located in the city or establishments located outside the city but which discharge FOG.

*FOG interceptor* means a multi-compartment device that is constructed in different sizes and is generally required to be located underground between a food service establishment and the connection to the sewer system. These devices primarily use gravity to separate FOG from the wastewater as it moves from one compartment to the next. These devices must be cleaned, maintained, and have the FOG removed and disposed of in a proper manner on regular intervals to be effective.

*FOG manifest* means a document that the state permitted transporter must provide to the FOG generator as proof of services rendered.

*FOG wastewater discharge permit* means a permit issued by the city authorizing the food service establishment or generator to discharge wastewater into the city's facilities or into the sewer system.

*Food service establishment (FSE)* means any person who prepares and/or packages food or beverage for sale or consumption, on or off site, with the exception of private residences so long as the private residence is not used to prepare or package food or beverage for sale. The term "food service establishment" includes, but is not limited to, food courts, food manufacturers, food packagers, restaurants, catering services, bar/tavern, cafeterias, soda fountains, institutions both public and private, mobile food vehicles (coach), wing trailers, diners, grocery stores, bakeries, coffee shops, ice cream shops, lounges, hospitals, hotels, nursing homes, churches, schools, day care center, and all other food service establishments not listed above either fixed or mobile as are or may hereafter be recognized by the health department and/or the state department of agriculture.

*Fresh air system fixtures* means a system that provides free circulation of air, which will prevent contamination from back flow or back siphonage, e.g., compartment sinks, dishwashers, floor drains, meat sinks, vegetable sinks, wok stations, mop sinks, etc.

*Generator* means any person including those outside the jurisdictional limits of the city who contributes, causes, or permits the contribution or discharge of wastewater into sewers within the city's boundaries.

*Georgia state permitted transporter* means a transporter as that term is defined by O.C.G.A. § 12-15-20 and as may hereinafter be amended.

*Grease trap* means an inside mechanism no less than 100 pounds and no more than 300 pounds in size, with baffle and flow control installed before the master trap.

*Hot flushing* means a situation prohibited in the city that occurs when the FOG interceptor is too close to a hot water using device so the water does not cool sufficiently in the interceptor to allow the FOG to coagulate and float to the top, and FOG is instead carried out to the sewer system.

*Limited food preparation establishment.*

- (1) The term "limited food preparation establishment" means an establishment that is engaged only in reheating or serving of ready to eat food products and as a result, discharges wastewater containing less than 100 mg/l of FOG per operating business day.
- (2) The term "limited food preparation establishment" does not include any operation that changes the form, flavor, or consistency of food.

*New construction* means any structure, planned or under construction, where a sewer connection permit is required by law or regulation but has not been issued by the city.

*Nonhazardous manifest* means a receipt that is retained by the generator of wastes for disposing of FOG, liquids or other wastes as required by the city.

*Plumbing drainage institute rating* means interceptors that are tested, rated, and certified in conformance with Standard Plumbing Drainage Institute and by the Plumbing and Drainage Institute.

*Public works superintendent* means the public works superintendent of the city public works department.

*Regulatory agencies* means those agencies having regulatory jurisdiction over the operations of the city including, but not limited to:

- (1) The United States Environmental Protection Agency, Region IV, Georgia and Washington, DC (EPA);
- (2) The Georgia Department of Natural Resources (DNR);
- (3) The Georgia Division of Public Health;
- (4) The Georgia Environmental Protection Division (EPD); or
- (5) Any regulatory agency or body as may be established by federal, state, or local law.

*Remodeling or remodeled* means a physical change or operational change in a structure that requires an issuance of or revision to a business license or a building permit.

*Septic tank* means a hollow chambered tank without a baffle, T's, and flow control to restrict FOG from entering the city's sewer system.

*Shovel inspection* means an inspection performed by a FOG compliance inspector who uses a shovel to determine the condition of the FOG interceptor.

*Sludge* means any solid, semi-solid or liquid decant, subnate or supernate from a manufacturing process, utility service, or pretreatment facility.

*Sludge judge inspection* means a test in which the FOG compliance inspector uses an instrument, usually a clear hollow plastic tube, to pull and measure a core sample from the FOG interceptor to determine its condition.

*Standard Plumbing Drainage Institute (PDI-G101)* means a comprehensive engineering and testing program developed to establish flow rates and FOG holding capacity for uniform rating of FOG interceptors.

*Total solids* means the sum of suspended and dissolved solids within a sample.

*Visual inspection* means an in-person observation by a compliance inspector to determine if a shovel inspection and/or a sludge judge inspection is necessary to determine the condition of the FOG interceptor.

*Waste* means sewage and any and all other waste substances, liquid, solid, or gaseous, associated with human habitation or of human or animal nature intended for disposal.

*Wastewater constituents and characteristics* means the individual chemical, physical, and/or bacteriological parameters, including volume and flow rate, and such other parameters, that serve to define, classify, or measure the quality and quantity of wastewater.

(Ord. No. OA-2008-02, § 1(4-512.5(f)), 9-8-2008; Ord. of 10-6-2008, § 1(4-512.5(f)))

## **Sec. 40-78. - Criminal penalties.**

- (a) Any person that does anything prohibited or fails to do anything required by this division, upon citation and conviction of the violation in the city municipal court, shall be subject to the penalties in accordance with [section 40-128](#). Where any offense or violation continues from day to day, each day's continuance thereof shall be deemed a separate offense.
- (b) Upon a second and subsequent conviction within a 12-month period measured from the date of the first conviction, of any violation of this division, the court shall impose a fine of not less than \$500.00 in addition to any other penalty or punishment imposed by the court.
- (c) Upon a third and subsequent conviction within a 12-month period measured from the date of the first conviction of any violation of this division, the court shall impose a fine of not less than \$1,000.00 in addition to any other penalty or punishment imposed by the court.
- (d) The penalties provided in this section are not cumulative and shall not prohibit the city from pursuing any other civil or criminal remedies authorized by this Code, state, or federal law.

(Ord. No. OA-2008-02, § I(4-512.51), 9-8-2008; Ord. of 10-6-2008, § I(4-512.51))

#### **Sec. 40-79. - Purpose, scope, and policy.**

- (a) This division is designed to facilitate the maximum beneficial public use of the city's sewer system while preventing blockages and overflows of the sewer system resulting from discharges of FOG into the city's sewer system and to specify appropriate FOG discharge requirements for all facilities emitting FOG.
- (b) By enactment of the regulations from which this division is derived, the city intends to exercise its authority over sizing, location, maintenance, and material of grease traps and/or interceptors located within the city and/or discharge into the city's sanitary sewer system.
- (c) The provisions of this division shall apply to the direct or indirect discharge of all wastewater or waste containing FOG discharged into the city's sewer system and/or private wastewater systems, including septic tanks.
- (d) This division establishes quantity and quality standards on all wastewater and/or waste discharges containing FOG; which may alone or collectively cause or contribute to FOG accumulation in the sewer system causing or potentially causing or contributing to the occurrence of sanitary sewer overflows and blockages.

(Ord. No. OA-2008-02, § I(4-512.52), 9-8-2008; Ord. of 10-6-2008, § I(4-512.52))

#### **Sec. 40-80. - Transporters of nonhazardous commercial waste.**

O.C.G.A. § 12-15-20 et seq., sets forth a permitting scheme for transporters of commercial waste and provides a regulatory method for the clean and sanitary removal of commercial waste. O.C.G.A. § 12-15-23 specifically authorizes local governments to enforce compliance with the provisions of the state law described in this section. O.C.G.A. § 12-15-20 et seq., as currently enacted and as may hereinafter be amended, is therefor adopted by reference as if set out fully in this section.

(Ord. No. OA-2008-02, § I(4-512.53), 9-8-2008; Ord. of 10-6-2008, § I(4-512.53))

#### **Sec. 40-81. - Best management practices.**

- (a) All persons disposing of FOG shall be required to properly dispose of FOG using all of the following best management practices:
  - (1) Dispose of FOG in covered collection containers;
  - (2) Place food scraps from dishes into trashcans and garbage bags and dispose of properly;
  - (3) Avoid disposing of food scraps in garbage disposers to help maintain interceptor volume;
  - (4) Allow FOG to cool first before it is skimmed, scraped, or wiped off of all preparation and servicing surfaces;
  - (5) Prewash dishes and pans with cold water before putting them in the dishwasher;
  - (6) Cover the kitchen sink drain with screening and empty debris into the garbage as needed;
  - (7) Cover the floor drain with a fine screen and empty into the garbage can as needed; and
  - (8) Recycle used fryer oil.
- (b) All persons disposing of FOG shall not use any of the following practices when disposing of FOG:
  - (1) Pouring FOG down the drain;
  - (2) Putting food scraps down the drain; or
  - (3) Running hot water over dishes, pans, fryers, woks, and griddles to rinse FOG down the drain (also known as hot flush).

(Ord. No. OA-2008-02, § I(4-512.54), 9-8-2008; Ord. of 10-6-2008, § I(4-512.54))

### **Sec. 40-82. - Requirements for interceptor and specific plumbing connections.**

- (a) All food service establishments shall only introduce pretreated wastewater acceptable to the city, under the requirements and standards established herein before discharging, directly or indirectly, into the city sewer system.
- (b) No more than 100 mg/l of FOG shall be discharged per operating business day. The FOG generator shall bear all of the expense of proving compliance with the 100 mg/l threshold.
- (c) Any food service establishment required to provide FOG pretreatment shall install, operate, and maintain an appropriately designed and adequately sized FOG interceptor that has been approved by the public works superintendent or designee.
- (d) The testing procedures for waste constituents and characteristics shall be as provided in 40 CFR 136 (Code of Federal Regulations).
- (e) FOG interceptors shall be connected to the food service establishment's lateral sewer line after all fixtures which may introduce FOG have been connected and shall have fresh air connected, as defined in this division. Fresh air fixtures include but are not limited to sinks, dishwashers, garbage disposals, automatic hood wash units, floor drains in food preparation and storage areas, and any other fixtures which have a potential to introduce FOG. Wastewater from sanitary sewer fixtures and other similar fixtures shall not be introduced into the FOG interceptor.
- (f) FOG interceptors shall not be connected to septic tanks.
- (g) All food service establishments that have dumpster pad/trash compactor drains on site and are connected to the sewer system shall have a separate interceptor (no less than 1,500 gallons in size) installed and functioning at all times. The sloping area to the outside drain and the drain shall be covered either by the dumpster/compactor or a canopy to prevent inflow and infiltration of rainwater.
- (h) Any drains that lead to the sewer system including, but not limited to, trench drains, enclosed dock drains, carwash drains, elevator drains, and other similar types of drains shall have an oil water debris interceptor of no less than 1,500 gallons and no more than 3,000 gallons in capacity.

*(Ord. No. OA-2008-02, § 1(4-512.55), 9-8-2008; Ord. of 10-6-2008, § 1(4-512.55))*

### **Sec. 40-83. - FOG interceptor physical specifications/requirements.**

- (a) All interior FOG interceptors shall:
  - (1) Be a minimum of 100 pounds in capacity as defined by the Plumbing Drainage Institute;
  - (2) Be made of corrosion-resistant coated metal;
  - (3) Be properly sized based on the results of an inspection and FOG evaluation;
  - (4) Contain properly installed and functioning baffle walls and other flow control devices necessary to achieve the appropriate retention time;
  - (5) Have at least a 30-minute interior retention time before gray water is discharged into the sewer system;
  - (6) Tie all of the fresh air fixtures to the FOG interceptor;
  - (7) Have 15-foot distance between the FOG interceptor and the last fresh air fixture and have a proper flow control device;
  - (8) Have a temperature of discharge entering the interior FOG interceptor that does not exceed 140 degrees Fahrenheit; and
  - (9) Be Plumbing Drainage Institute rated, be accessible for inspection, and be installed in accordance with the manufacturer's specifications by a licensed plumber and not a representative and/or an apprentice of the licensed plumber.
- (b) All exterior FOG interceptors shall:
  - (1) Be a minimum of 1,500 gallons in capacity;
  - (2) Be properly sized based on the results of an inspection and FOG evaluation;
  - (3) Be constructed of reinforced materials suitable for loadbearing and watertight to prevent inflow and infiltration;
  - (4) Be precast with a minimum of 3,000 psi concrete pursuant to applicable American Society for Testing and Materials standards with four to seven percent air entrapment;
  - (5) Have an invert elevation of the inlet between three inches to six inches above the invert elevation of the outlet;
  - (6) Contain a properly installed and functioning baffle wall and other flow control devices necessary to achieve an adequate time for FOG to properly separate but not to exceed 24 hours;
  - (7) Contain inlet and outlet-Ts made of schedule 40 PVC piping and at a 90-degree angle with a minimum diameter of the inlet and outlet piping to be six inches;
  - (8) Include the outlet-T six inches from the manhole cover;

- (9) Include T-piping of the inlet and outlet that is within 18 inches of the bottom and at least five inches above the static liquid level of the tank;
  - (10) Have the FOG interceptor set level on a consolidated, stable base so that no settling or tipping of the FOG interceptor can occur;
  - (11) Connect all of the fresh air fixtures to the FOG interceptor;
  - (12) Have the outlet discharge line from the FOG interceptor directly connected to a sewer line tapped into the collection main;
  - (13) Have solid manhole covers to prevent inflow and infiltration;
  - (14) Have two or more manholes for entry to each chamber of hydraulic liquid mass;
  - (15) Be accessible for inspections and have no permanent or temporary structure or container placed directly over the FOG interceptor or installed in areas subject to traffic; and
  - (16) Be installed by a licensed plumber.
- (c) The contents of any fryer oil containers shall not be mixed with any other FOG interceptor waste or any other nontoxic or toxic substances.

(Ord. No. OA-2008-02, § I(4-512.56), 9-8-2008; Ord. of 10-6-2008, § I(4-512.56))

#### **Sec. 40-84. - Maintenance requirements for new and existing food service establishments.**

- (a) *Depth requirement.* The depth of FOG (floating and settled) in the FOG interceptor shall not be equal to or greater than 25 percent of the total operating depth of the interceptor.
- (b) *General requirements for FOG interceptors.* In order to maintain FOG interceptors, all food service establishments shall remove the sludge, floating materials, solids, and wastewater, and shall scrape all excessive solids from the walls, floor, baffles, and all pipe work and shall pump interior and exterior FOG interceptors dry as set forth in this division and as required by the terms and conditions of the permit.
  - (1) FOG interceptors shall be kept free from any inflow/infiltration such as grit, rocks, gravel, sand, eating utensils, cigarettes, shells, towels, rags, etc., as such inflow reduces the effectiveness of the FOG interceptor; thereby increasing the need for more frequent cleaning;
  - (2) To ensure that the FOG interceptor can be maintained properly, the FOG interceptor needs to be free from any obstruction that would hinder the maintenance, function, and inspection of the interceptor;
  - (3) A state permitted transporter shall perform all maintenance of FOG interceptors. All state permitted transporters working in the city shall have an active state waste transporter's permit and the city transporters permit in the manner and form set forth by O.C.G.A. § 512-15-20 et seq. Transporters working in the city are required to leave a copy of a nonhazardous waste manifest with the food service establishment. Maintenance schedules may vary based on individual circumstances to protect the sewer system;
  - (4) The FOG compliance inspector has the authority to change the FOG interceptors' cleaning cycles for any FOG generator at any time;
  - (5) The discharge or introduction of any additives to the sewer system is unlawful and prohibited, such as the direct introduction of additives into the biological agents, including enzymes, bacteria, and/or degreasing agents;
  - (6) The FOG generator shall be responsible for the proper removal and disposal of the FOG interceptor waste by a state permitted waste transporter and maintenance of records of disposal as specified in this section. All waste removed from each FOG interceptor must be disposed of at an appropriate disposal facility designed to receive such waste;
  - (7) No FOG interceptor pumpage shall be discharged to the sewer system as otherwise prohibited in this division;
  - (8) Every FOG interceptor shall be required to have a state nonhazardous waste manifest. The state nonhazardous waste manifest must be complete with all information required by this division and state law; and
  - (9) Mechanical FOG interceptors are prohibited in the city.
- (c) *Exterior FOG interceptors.* Maintenance of exterior FOG interceptors shall be performed at least once every 90 days. Skimming, decanting, and/or any reintroduction of water into exterior FOG interceptors shall not be allowed under any conditions.
- (d) *Interior FOG interceptors.* Interior FOG interceptors maintenance shall be performed once every 30 days, and all of the fresh air and/or safe way plumbing fixtures shall be connected. In-house cleaning of interior FOG interceptors is prohibited. To ensure proper FOG interceptor maintenance, interior FOG interceptors shall be free from any obstruction that would hinder the maintenance of the interceptor. Interior FOG interceptors shall be easily accessible with a minimum clearance of 36 inches.

- (e) *Interior and exterior FOG interceptor records.* All food service establishments shall maintain records of the date and time of all cleaning and maintenance. Every FOG interceptor manifest shall be placed in a logbook, folder or three-ring binder notebook. This book shall be made available on demand by the FOG compliance inspector during inspection. All records of at least three years shall be kept onsite and available. These records shall include:
- (1) A logbook of FOG interceptor and/or FOG control device cleaning and maintenance;
  - (2) A record of best management practices being implemented, including employee training;
  - (3) Copies of records and manifests of waste transporting interceptor contents;
  - (4) Records of any spills and/or cleaning of the lateral sewer line; and
  - (5) Records of sampling data and sludge height monitoring for FOG and solids accumulation in the FOG interceptors.

(Ord. No. OA-2008-02, § 1(4-512.57), 9-8-2008; Ord. of 10-6-2008, § 1(4-512.57))

### **Sec. 40-85. - New and existing facilities; grandfathering; effective date.**

- (a) *New facilities.* Food service establishments, which are newly proposed, constructed, or existing facilities which will be expanded or renovated, shall be required to install a properly sized FOG interceptor according to the requirements set forth in this division and such FOG interceptors shall be permitted and installed prior to the issuance of a certificate of occupancy for the food service establishment.
- (b) *Existing facilities.* The city requires all existing food service establishments to install, operate, and maintain a FOG interceptor that complies with the requirements set forth in this division. All food service establishments shall repair or replace any noncomplaint plumbing or the existing FOG interceptor within 90 days of written notification by the city if any one or more of the following conditions exist or occur:
- (1) The facility is found to produce any product that creates FOG as a byproduct;
  - (2) The facility does not have a FOG interceptor;
  - (3) The facility has an undersized, irreparable, improperly configured, or defective FOG interceptor;
  - (4) Remodeling of the food preparation or kitchen waste plumbing system is performed which requires a plumbing permit to be issued by the city;
  - (5) The existing facility is sold or undergoes a change of ownership or expansion;
  - (6) The existing facility does not have a plumbing connection to a FOG interceptor in compliance with the requirements of the city; or
  - (7) If a food service establishment changes its business name.

Additional time to repair or replace any noncomplaint plumbing or the existing FOG interceptor may be given by the public works superintendent on a case-by-case basis.

- (c) *Grandfathering.* If an existing food service establishment is housed in a structure that, because of its architectural or historical restrictions, the owner will suffer extreme economic hardship in order to upgrade the existing FOG interceptor, then the establishment may keep the current FOG interceptor in place provided that all fresh air fixtures must be tied into the current FOG interceptor, and the FOG interceptor must be at least 15 feet from the last fresh air fixture. Additionally, the FOG interceptor must be cleaned every ten days by a state permitted transporter. In the event that any remodeling of such a food service establishment is undertaken or if the food service establishment changes ownership, then a FOG interceptor that complies with all applicable requirements of this Code shall be installed.
- (d) *Notification of planned changes.* All food service establishments shall notify the FOG compliance manager in writing at least 90 days in advance prior to any change of ownership, facility expansion/remodeling, or process modifications that may result in new or substantially increased FOG discharges or a change in the nature of the discharge. All food service establishments shall submit any information requested by the city for evaluation of the effect of such expansion on the food service establishment's FOG discharge to the sewer system.
- (e) *Effective date.* The ordinance from which this division is derived shall become fully effective six months after its adoption by the city council and approval by the mayor. During this six month period, the city council or designee shall promulgate a written policy to ensure that all existing food service establishments in the city come into compliance with and obtain the necessary permits required by this division. The delayed effective date of these regulations is designed to allow a staggered schedule of inspections and permitting such that all existing food service establishments in the city are in compliance with and have obtained the required permits on or before the expiration of the six months described in this section. During this six-month period, food service establishments shall comply with the inspection and permitting staggered schedule promulgated by the city council and if in compliance with such staggered schedule, such food service establishments shall not be subject to citation for failure to be in compliance with this division or for failure to have obtained the required permits delineated in these regulations. After the expiration of this six-month period, all existing and newly constructed or remodeled food service establishments shall comply with all applicable requirements of this chapter.

(Ord. No. OA-2008-02, § 1(4-512.513), 9-8-2008; Ord. of 10-6-2008, § 1(4-512.513))

#### **Sec. 40-86. - Notification of spills by the food service establishment.**

- (a) In the event that any food service establishment is unable to comply with any permit condition due to a breakdown of equipment, accidents, or human error or the food service establishment has reasonable opportunity to know that his discharge shall exceed the discharge provisions of the FOG wastewater discharge permit or this division, the food service establishments shall immediately notify the compliance inspector or designee by telephone at the number specified in the permit. If the material discharged to the sewer has the potential to cause or result in sewer blockages or sanitary sewer overflows, the food service establishment shall immediately notify the compliance inspector or designee by telephone at the number specified in the permit.
- (b) All food service establishments shall provide written notification of this oral or telephonic notification to the compliance inspector at the address specified in the permit no later than five working days from the date of the incident. The written notification shall state the date of the incident, the reasons for the discharge or spill, what steps were taken to immediately correct the problem, and what steps are being taken to prevent the problem from recurring.
- (c) Such notification shall not relieve a food service establishment of any expense, loss, damage, or other liability which may be incurred as a result of damage or loss to the city or any other damage or loss to person or property; nor will such notification relieve a food service establishment from payment of any fees or imposition of any other liability which may be authorized by this division or other applicable law.

(Ord. No. OA-2008-02, § 1(4-512.58), 9-8-2008; Ord. of 10-6-2008, § 1(4-512.58))

#### **Sec. 40-87. - Inspections and authority to enforce regulations.**

- (a) *Authority to inspect.* The compliance inspectors shall inspect food service establishments on both an unscheduled and unannounced basis or on a scheduled basis. All food service establishments may be inspected four or more times per year. Inspection of a FOG interceptor shall be performed at frequencies necessary to protect the capacity of the sewer system against the accumulation of FOG in an amount that would exceed the 25 percent rule. Inspection shall include all fixtures, equipment, food processing, and storage areas, and shall include a review of the processes that produce wastewater discharged from a facility through the FOG interceptor. Any deficiencies shall be noted, including, but not to be limited to:
- (1) Failure to report changes in operations or wastewater constituents and characteristics;
  - (2) Failure to properly maintain the FOG interceptor;
  - (3) Failure to maintain logs, files, records, or access for inspection or monitoring activities;
  - (4) Failure to obtain or renew the FOG discharge permits in a timely manner; or
  - (5) Any other violations of this division or state law that requires correction by the food service establishment.
- (b) *Right of entry.* Where it is necessary to make an inspection to enforce the provisions of this division or where the compliance inspector or designee has reasonable cause to believe that there exists in a building or structure or upon a premises, a condition which is contrary to or in violation of the applicable provisions of this Code, the compliance inspector or designee is authorized to enter the building, structure or premises at reasonable times to inspect or perform any of the duties imposed by the applicable provisions of this Code. If such building, structure, or premises is occupied, the inspector shall present credentials to the occupant and shall request entry. If such building, structure, or premises is unoccupied, the inspector shall first make a reasonable effort to locate the owner or other person having charge or control of the building, structure or premises and request entry. If entry is refused, the inspector shall have recourse to the remedies provided by law for entry. In the event of an emergency involving actual or imminent sanitary sewer overflow, the inspector may access adjoining businesses or properties that share a sewer system with a food service establishment in order to prevent or remediate an actual or imminent sewer overflow.

(Ord. No. OA-2008-02, § 1(4-512.518), 9-8-2008; Ord. of 10-6-2008, § 1(4-512.518))

#### **Sec. 40-88. - Noncompliance fees, letters, and schedules.**

- (a) *Reinspection fee.* Any food service establishment in noncompliance with the terms and conditions specified in its permit or with any provision of this division shall pay a noncompliance fee. The purpose of the noncompliance fee is to compensate the city for cost of additional inspection, followup, sampling, monitoring, laboratory analysis, treatment, disposal, and administrative processing incurred as a result of the noncompliance, and shall be in addition to and not in lieu of any penalties as may be assessed pursuant to this division. Noncompliance fees shall be in the amount adopted by action of the governing authority.

- (b) *Noncompliance letters.* Immediately following every inspection and/or FOG evaluation, the food service establishment inspected shall receive a letter indicating the results of the inspection. A certified letter of noncompliance means the food service establishment is in violation of the applicable provisions of this Code. Letters of noncompliance shall include a description of the code being violated and the immediate course of action the food service establishment shall be required to take to come into compliance. Failure to comply with a letter of noncompliance is also a violation of this division.
- (c) *Compliance schedule.* Upon determination that a food service establishment is noncompliant with the terms and conditions specified in its permit or any provision of this division, or needs to construct and/or acquire and install a FOG interceptor, the compliance inspector may also issue and require the food service establishment to abide by a compliance schedule. The issuance of a compliance schedule may contain terms and conditions including, but not limited to, requirements for installation of a FOG interceptor and facilities, submittal of drawings or reports, audit of waste hauling records, best management and waste minimization practices, payment of fees, or other provisions to ensure compliance with this division.
- (d) *Fees.* The compliance inspector shall not issue a compliance schedule until such time as all amounts due and owed by the food service establishment to the city are paid in full. If compliance is not achieved in accordance with the terms and conditions of a compliance schedule, the compliance inspector may issue an order suspending or revoking the FOG wastewater discharge permit.

(Ord. No. OA-2008-02, § 1(4-512.519), 9-8-2008; Ord. of 10-6-2008, § 1(4-512.519))

**Secs. 40-89—40-119. - Reserved.**

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**Subdivision II. - FOG Wastewater Discharge Permit**

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**Sec. 40-120. - Required; procedure.**

- (a) Food service establishments proposing to discharge or currently discharging wastewater that contains FOG into the city sewer system shall obtain a FOG wastewater discharge permit annually or cease ongoing operation until such permit is obtained. In addition to any other penalties authorized by law, failure to obtain such a permit shall subject the food service establishment to the potential of the disconnection of water service until such permit is obtained.
- (b) FOG wastewater discharge permits shall be subject to all provisions of this division and all other regulations, charges for use, and fees established by the city. The city, in accordance with this division and applicable law, shall have the authority to enforce the conditions of FOG wastewater discharge permits.
- (c) The FOG wastewater discharge permit shall be issued upon:
  - (1) Receipt of a complete application;
  - (2) Compliance with this division;
  - (3) Compliance with the applicable provisions of this Code; and
  - (4) The proper installation and maintenance of a FOG interceptor that complies with the applicable provisions of this Code.

In the event that the food service establishment complies with the applicable provisions of this division, a permit will be issued or denied within 30 days of compliance with this section. If the permit is not issued or denied within the time frame specified herein, the permit shall be deemed issued and approved.

(Ord. No. OA-2008-02, § 1(4-512.59), 9-8-2008; Ord. of 10-6-2008, § 1(4-512.59))

### **Sec. 40-121. - Application.**

- (a) All food service establishments are required to obtain a FOG wastewater discharge permit and shall complete and file with the city prior to commencing or continuing discharges, an application for a wastewater discharge permit in a form prescribed by the city along with any applicable fees. The applicant shall submit, in units and terms appropriate for evaluation, the following information:
  - (1) Name, address, telephone number, assessor's parcel numbers, description of the food service establishment, operation, cuisine, service activities, and, as applicable, clients using the applicant's services;
  - (2) Whichever is applicable, the name and address of any and all principals/owners/major shareholders of the food service establishment, articles of incorporation, most recent report of the secretary of state, and a copy of the owner's business license;
  - (3) Name and address of property owner or lessee and the property manager for the property where the food service establishment is located; and
  - (4) Any other information specified in the application form.
- (b) Applicants may be required to submit site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, FOG control devices, FOG interceptors, or other pretreatment equipment and appurtenances by size, location, and elevation for evaluation.
- (c) Other information related to the applicant's business operations and potential discharge may be requested to properly evaluate the permit application.
- (d) After evaluation of the data furnished, the city may issue a FOG wastewater discharge permit, subject to the terms and conditions set forth in this division and as otherwise determined by the compliance inspector to be appropriate to protect the city's sewer system.
- (e) The FOG wastewater discharge permit and application fee shall be paid by the applicant in an amount adopted by action of the governing authority. Payment of the application permit fee must be received by the city at the time of filing the application for the permit. A food service establishment shall also pay any delinquent invoices in full prior to any permit renewal.
- (f) An application shall not be considered complete until all the information required by this section is provided to the compliance inspector or designee. The compliance inspector shall have 15 business days from receipt of such information to advise a food service establishment that an application is not complete.

(Ord. No. OA-2008-02, § 1(4-512.510), 9-8-2008; Ord. of 10-6-2008, § 1(4-512.510))

### **Sec. 40-122. - Conditions.**

The issuance of a FOG wastewater discharge permit may contain any of the following conditions or limits:

- (1) Limits on discharge of FOG (100 mg/l), which may cause or contribute to sanitary sewer overflows and/or sewer blockages.
- (2) Requirements for proper operation and maintenance of FOG interceptors and other FOG control devices.
- (3) FOG interceptor maintenance frequency and schedule.
- (4) Requirements for implementation of best management practices and installation of adequate FOG interceptor and/or FOG control device.
- (5) Requirements for maintaining and reporting status of best management practices.
- (6) Requirements for maintaining and submitting logs and records, including waste hauling records and waste manifests.
- (7) Requirements to self-monitor the discharge to the sewer system and periodically assess and report on the condition of the sewer lateral.
- (8) Requirements for the food service establishment to construct operate and maintain, at its own expense, a FOG control devices and sampling facilities.
- (9) Additional requirements as otherwise determined to be reasonably appropriate by the compliance inspector to protect the city's sewer system or as specified by other regulatory agencies.
- (10) Other terms and conditions, which may be reasonably applicable to ensure compliance with this division.

(Ord. No. OA-2008-02, § 1(4-512.511), 9-8-2008)

### **Sec. 40-123. - Modification of terms and conditions.**

- (a) The terms and conditions of an issued permit may be modified by the compliance inspector if there is a change in:
- (1) The generator's current or anticipated operating data;
  - (2) The city's current or anticipated operating data;
  - (3) In the requirements of regulatory agencies, which affect the city; and
  - (4) A determination by the compliance inspector and his designee that such modification is required to comply with the provisions of this division.
- (b) The food service establishment may request a modification to the terms and conditions of an issued permit. The request shall be in writing stating the requested change and the reasons for the change. The compliance inspector shall review the request, make a determination on the request, and respond in writing within 30 days of receipt of the request.
- (c) The food service establishment shall be informed of any change in the permit limits, conditions, or requirements at least 45 days prior to the effective date of the change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance, not to exceed 45 days.

(Ord. No. OA-2008-02, § 1(4-512.512), 9-8-2008; Ord. of 10-6-2008, § 1(4-512.512))

### **Sec. 40-124. - Duration and renewal.**

FOG wastewater discharge permits shall be issued annually. At least 30 days prior to the expiration of the permit, the user shall apply for renewal of the permit in accordance with the provisions of this subdivision.

(Ord. No. OA-2008-02, § 1(4-512.514), 9-8-2008; Ord. of 10-6-2008, § 1(4-512.514))

### **Sec. 40-125. - Exemption.**

A limited food preparation establishment is not considered a food service establishment and is exempt from obtaining a FOG wastewater discharge permit.

(Ord. No. OA-2008-02, § 1(4-512.515), 9-8-2008; Ord. of 10-6-2008, § 1(4-512.515))

### **Sec. 40-126. - Nontransferability.**

- (a) FOG wastewater discharge permits issued under this division are for a specific food service establishment, for a specific operation, and create no vested rights.
- (b) No permit holder shall assign, transfer, or sell any FOG wastewater discharge permit issued under this division nor use any such permit for or on any modifications that may result in new or substantially increased FOG discharges or a change in the nature of the discharge. All food service establishments shall submit any information requested by the city for evaluation of the effect of such expansion on the food service establishment's FOG discharge to the sewer system.

(Ord. No. OA-2008-02, § 1(4-512.516), 9-8-2008; Ord. of 10-6-2008, § 1(4-512.516))

### **Sec. 40-127. - Payment of charges.**

All fees established by this division are due and payable upon receipt of notice thereof. Accounts shall become delinquent if not paid within 30 days of the date of mailing, or if personally delivered, the date of delivery. Any invoice outstanding and unpaid after 90 days shall be cause for immediate initiation of permit revocation proceedings or immediate suspension of the permit.

(Ord. No. OA-2008-02, § 1(4-512.517), 9-8-2008; Ord. of 10-6-2008, § 1(4-512.517))

### **Sec. 40-128. - Suspension and revocation.**

- (a) *Permit suspension and revocation.* The compliance inspector may suspend or revoke any permit when it is determined that a food service establishment:
- (1) Fails to comply with the terms and conditions of a noncompliance letter or compliance schedule order;
  - (2) Destroys, removes, conceals, or knowingly provides a false statement, representation, record, report, or other document to the city;

- (3) Refuses to provide records, reports, plans, or other documents required by the city to determine permit terms or conditions, discharge compliance, or compliance with this division;
  - (4) Falsifies, tampers with, destroys, or knowingly renders inaccurate any monitoring device or sample collection method;
  - (5) Does not make timely payment of all amounts owed to the city for user charges, permit fees, or any other fees imposed pursuant to this division;
  - (6) Causes interference, a sewer blockage, or a sanitary sewer overflow in the sewer system, violates FOG interceptor maintenance requirements, violates any condition or limit of its FOG wastewater discharge permit, or violates any provision of this division; or
  - (7) Refuses to accept a notice by personal service or certified mail.
- (b) *Notification.*
- (1) When the compliance inspector has reason to believe that grounds exist for permit suspension or revocation, he shall give written notice thereof by certified mail to the food service establishment setting forth a statement of the facts and grounds deemed to exist, together with the time and place where the charges shall be heard by the mayor and council of the city. The hearing date shall be not less than 15 calendar days or more than 45 calendar days after the mailing of such notice. At the suspension or revocation hearing, the food service establishment shall have an opportunity to respond to the allegations set forth in the notice by presenting written or oral evidence. The decision of the mayor and council of the city shall be final.
  - (2) The written decision and order of the mayor and council of the city shall be sent by certified mail to the food service establishment at the food service establishment's business address. Upon an order of suspension or revocation by the compliance inspector becoming final, the food service establishment shall immediately cease and desist its discharge and shall have no right to discharge any wastewater containing FOG directly or indirectly into the city's sewer system for the duration of the suspension. All costs for physically terminating and reinstating service shall be paid by the food service establishment. Any owner or responsible management employee of the food service establishment shall be bound by the order of suspension or revocation. Upon an order of revocation by the compliance inspector becoming final, the food service establishment shall permanently lose all rights to discharge any wastewater containing FOG directly or indirectly to the city's sewer system. All costs for physical termination shall be paid by the food service establishment.
  - (3) An order of permit suspension or revocation issued by the city shall be final in all respects on the 16th day after it is mailed to the food service establishment.
- (c) *Damage to facilities or interruption of normal operations of the sewer system.* Any person who discharges any waste which causes or contributes to any sewer blockage, sanitary sewer overflows, obstruction, interference, damage, or any other impairment to the city's sewer system and/or equipment, or to the operation of those facilities and/or equipment shall be liable for all costs required to clean and/or repair the facilities and/or equipment, together with expenses incurred by the city to resume normal operations. A service charge of 25 percent of the city's costs shall be added to the costs and charges to reimburse the city for miscellaneous overhead, including administrative personnel and record keeping. The total amount shall be payable within 45 days of invoicing by the city. Any person who discharges a waste which causes or contributes to the city violating its discharge requirements established by any regulatory agency incurring additional expenses or suffering losses or damage to the facilities and/or equipment shall be liable for any costs or expenses incurred by the city, including regulatory fines, penalties, and assessments made by other agencies or a court.
- (d) *Termination of water service to the food service establishment.* The city, by order of the city manager or his designee, may physically terminate water service to any property as follows:
- (1) If so ordered in any order of suspension or revocation of a permit; or
  - (2) Upon the failure of a person not holding a valid FOG wastewater discharge permit to immediately cease the discharge, whether direct or indirect, to the city's sewer system after the issuance of a final order or suspension or revocation; and
  - (3) All costs for physical termination of the water service shall be paid by the owner or operator of the food service establishment as well as all costs for reinstating service.
- (e) *Emergency suspension order.* The city may, by order of the city manager or his designee, suspend water service when the compliance inspector or designee determines that such suspension is necessary in order to stop an actual or impending discharge which presents or may present an imminent or substantial endangerment to the health and welfare of persons, or to the environment, or may cause sanitary sewer overflows, sewer blockages, interference to the city's sewer facilities, or may cause the city to violate any state or federal law or regulation. Any discharger notified of and subject to an emergency suspension order shall immediately cease and desist the discharge of all wastewater containing FOG to the sewer system.
- (f) *Emergency suspension hearing.* As soon as reasonably practicable following the issuance of an emergency suspension order, but in no event more than five business days following the issuance of

such order, the city manager or his designee shall hold a hearing to provide a food service establishment the opportunity to present information in opposition to the issuance of the emergency suspension order. Such a hearing shall not stay the effect of the emergency suspension order. The city manager or his designee shall issue a written decision and order within two business days following the hearing, which decision shall be sent by certified mail to the food service establishment at that food service establishment's business address. This decision shall either lift the emergency suspension order or suspend or revoke the permit subject to the suspension and revocation appeal process set forth in this division.

- (g)** *Appeal.* Any suspension, termination, or revocation pursuant to this division shall be appealable to the superior court of the county by written appeal filed in the superior court of the county within 30 days of any such suspension, termination or revocation.

*(Ord. No. OA-2008-02, § 1(4-512.520), 9-8-2008; Ord. of 10-6-2008, § 1(4-512.520))*

**Secs. 40-129—40-173. - Reserved.**