

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 13 OF THE STOCKTON MUNICIPAL CODE BY DELETING SECTION 13.08.280, GREASE INTERCEPTORS, AND BY ADDING CHAPTER 13.40 TO REGULATE THE DISCHARGE OF FATS, OILS AND GREASE FROM FOOD SERVICE ESTABLISHMENTS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

SECTION I. AMENDMENT OF CODE.

Title 13 of the Stockton Municipal Code is hereby amended by deleting Section 13.08.280.

SECTION II. AMENDMENT OF CODE.

Title 13 of the Stockton Municipal Code is hereby amended to add a new Chapter 13.40 to read, as follows:

Chapter 13.40 DISCHARGES OF FATS, OILS, AND GREASE FROM FOOD SERVICE ESTABLISHMENTS

Article I. General Provisions

13.40.010 PURPOSE.

- A. The purpose of this Chapter is to facilitate the maximum beneficial use of the City's sewer services and facilities while preventing blockages of the sewer lines resulting from discharges of fats, oils, and grease (FOG) into the public sewer, and to specify appropriate FOG discharge requirements for food service establishments as defined herein.
- B. The provisions set forth in this Chapter are designed to ensure compliance with federal, state and local laws and regulations, and to allow the City to meet applicable standards.
- C. This Chapter also establishes quantity and quality standards on all discharges containing FOG, which may alone or collectively cause or contribute to FOG accumulation in the sewer facilities causing or potentially causing or contributing to the occurrence of sanitary sewer overflows.

13.40.020 APPLICABILITY.

- A. This Chapter shall apply to discharges of wastewater containing FOG conveyed to the public sewer from any commercial or institutional Food Service Establishment. Industrial users subject to Federal Pretreatment Regulations shall be regulated under Chapter 13.08.

13.40.030 DEFINITIONS.

Subject to the foregoing, the meaning of the terms used in this Chapter shall be as follows:

"Best Management Practices" or "BMPs" means activities, prohibitions, maintenance procedures and other management practices to prevent or reduce the introduction of FOG into the public sewer.

"Blockage" means a partial or complete obstruction of wastewater flowing through a sewer pipeline.

"Change in Law" means a change to any state or federal law, permit or regulation; changes to the City Code; changes to any City NPDES permit or Waste Discharge Requirement; or the subsequent existence of any court order, consent decree, injunction or other regulatory or legal imposition that affects the use and/or operation of the City's sanitary sewer system and any other public or private sanitary sewer systems, lines or other public or private infrastructure that connects to the City's sanitary sewer system.

"Change in operations" means any change in the ownership, food types, or operational procedures that have the potential to change the amount of FOG discharged by an FSE to the City's wastewater collection and treatment system.

"City" means the City of Stockton, a municipal corporation.

"Collection system" means the public sewer system consisting of all pipes and conveyance system components conveying wastewater to the City's wastewater treatment plant.

"Commissary" means an establishment which is used as a base of operations for one or more motorized food wagons or push carts, where such unit or units and/or equipment are serviced, cleaned, supplied and/or maintained.

"Composite sample" means a collection of individual samples obtained at selected intervals based on an increment of either flow or time. The resulting mixture (composite sample) is intended to form a representative sample of the waste stream discharged during the sample period.

"Design hydraulic depth" means total operating depth of interceptor contents at which interceptor is designed to operate.

"Director" means the City of Stockton Director of Municipal Utilities or his or her authorized representative.

"Enforcement officer" means any City employee or agent of the City with authority to enforce the provisions of this Chapter and the authority to make any decision, on behalf of the Director, required or called for by this Chapter.

"Fats, oils, and grease" or "FOG" means any substance such as vegetable or animal product that is used in, or is a byproduct of, the cooking or food preparation process, and that becomes or may become viscous, or solidifies or may solidify, with a change in temperature or other conditions.

"Food grinder" means any device installed in the plumbing or wastewater system for the purpose of grinding food or food waste.

"Food service establishment" or "FSE" means a facility, including but not limited to, any commercial or institutional entity within the sanitary sewer service area of the Regional Wastewater Control Facility, operating in a permanently constructed structure such as a room, building or place, or portion thereof, maintained, used or operated for the purpose of storing, preparing, serving, manufacturing, packing or otherwise handling food for sale to other entities, or for consumption by the public, its members or employees, and which has any process or device that uses or produces FOG, or grease vapors, steam, fumes, smoke or odors that are required to be removed by an exhaust hood pursuant to California Health and Safety Code Section 114149.1 or in accordance with the California Uniform Retail Food Facilities Law (CURFFL) (California Health and Safety Code sections 113700, et seq.). The term "food service establishment" or "FSE" also means any Commissary where food is prepared using fats, oils, or grease and/or which receives water from motorized food wagons or push carts containing fats, oils or grease. A limited food preparation establishment is not considered an FSE when engaged only in reheating, hot holding, or assembly of ready to eat food products, provided that the establishment has no wastewater discharge containing a significant amount of FOG.

"Grab sample" means a sample taken from a waste stream on a one-time basis without regard to the flow in the waste stream and without consideration of time.

"Grease control device" means any grease interceptor, grease trap or other mechanism, device or process which attaches to, or is applied to, wastewater plumbing fixtures and lines, the purpose of which is to trap, collect or treat FOG prior to it being discharged into the public sewer.

"Grease interceptor" means a multi-compartment device that primarily uses gravity to separate FOG from the wastewater as it moves from one compartment to the next. The design, construction, sizing and installation of grease interceptors shall conform to this Chapter and the most current edition of the California Plumbing Code. In the event of conflict, this Chapter will control.

"Grease trap" means a grease control device that is used to serve individual plumbing fixtures. A grease trap is typically installed indoors, under or near a dishwashing sink.

"Hot spots" mean sewer lines that have experienced grease related blockages or SSOs and that must be cleaned or maintained frequently to avoid blockages of the public sewer.

"Inspector" means a person authorized by the Director to inspect any existing or proposed wastewater generation, conveyance, processing and/or disposal facilities.

"Institution" means a school, church, hospital, convalescent home or other similar entity.

"Interceptor" means a "grease interceptor".

"Lower lateral" means the lateral line owned by the City connecting a home or other structure to the City's sewer main extending from the sewer main to the back of the public right-of-way or point of connection to the private lateral, whichever is applicable. Lower laterals are generally connected to private laterals.

"Manifest" means that receipt which is retained by a FSE for the disposal of FOG, recyclable wastes and/or liquid wastes.

"New construction" means any structure planned or under construction for which a sewer connection permit has not been issued.

"Person" means any individual, partnership, co-partnership, firm, company, association, society, corporation, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by context.

"Public sewer" means a sewer connected to the Regional Wastewater Control Facility.

"Remodel" or "remodeling" means any physical and/or operational change to a FSE that involves any one or a combination of the following:

1. Under-slab plumbing in the food processing area.
2. A thirty percent (30%) or greater increase in the net public seating area.
3. A thirty percent (30%) or greater increase in the size of the kitchen area.
4. Any change in the size or type of food preparation equipment.
5. Any remodel, addition, alteration or repair valued greater than \$75,000.

"Responsible person" means a person who the Director determines is responsible for causing, permitting, or maintaining a public nuisance or a violation of the Municipal Code, any applicable Uniform Code, applicable state codes, any National Pollutant Discharge Elimination System ("NPDES") permit or any wastewater discharge permit. The term "responsible person" includes, but is not limited to, a property owner, tenant, person with a legal interest in the property, person in possession of the property or person that exercises custody and control over the property.

"Sanitary sewer" means a sewer which conveys wastewater.

"Sanitary sewer overflow" or "SSO" means any overflow, spill, release, discharge or diversion of untreated or partially treated wastewater from a sanitary sewer system.

"Sewer facilities" or "sewer system" means any and all facilities used for collecting, conveying, pumping, treating and disposing of sewage, wastewater and/or sludge.

"Sewer lateral" means a building sewer as defined in the latest edition of the California Plumbing Code. It is the wastewater pipeline connecting a building's wastewater plumbing to the public sewer.

"Sludge" means any solid, semi-solid and/or liquid decant, sediment or supernate from a manufacturing process, utility service, tank, vault or FOG control facility.

"Storm drain" means a pipe or conduit for carrying storm and surface waters and drainage, but excludes wastewater and industrial wastes, other than unpolluted cooling water.

"Twenty-five percent (25%) rule" means requirement for grease interceptors to be maintained such that the combined FOG and solids accumulation does not

exceed twenty-five percent (25%) of the design hydraulic depth of the grease interceptor. This is to ensure that the minimum hydraulic retention time and required available hydraulic volume are maintained to effectively intercept and retain FOG discharged to the sewer system.

"Upper lateral" means the private sanitary sewer lateral or pipeline connecting a home or other structure to the lower lateral, generally extending from the outside of the foundation of the structure to the public right-of-way or point of connection to the public sewer system, whichever is applicable.

"Waste" means wastewater and any and all other waste substances, liquid, solid, gaseous or radioactive, associated with human habitation or of human or animal nature, including such wastes placed within containers of whatever nature prior to and for the purpose of disposal.

"Wastewater" means the liquid and water carrying industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, FSEs, and institutions, whether treated or untreated, which is discharged into the City's wastewater collection system.

Article II. Regulations and Requirements

13.40.040 FOG DISCHARGE LIMITATION.

No FSE shall discharge FOG, or cause FOG to be discharged into the public or private sewer or lateral that causes an SSO or that may accumulate and/or cause or contribute to blockages in the public or private sewer or lateral which connects the FSE to the public sewer.

13.40.050 PUBLIC SEWER OVERFLOWS; PUBLIC NUISANCE; ABATEMENT ORDERS AND CLEANUP COSTS.

- A. The discharge of FOG into the public or private sewer that causes an SSO or that accumulates or has the potential to accumulate such that it may or does cause or contribute to a blockage of the public or private sewer or lateral that may result in an SSO, presents a risk to the public health, safety and welfare and is hereby declared a public nuisance and may be abated pursuant to the provisions of this Chapter, or by any means otherwise provided by law.
- B. When the Director determines that an FSE has discharged FOG and that FOG discharge has caused a blockage of the public or private sewer or lateral or an SSO, the Director may order the FSE owner or the property owner to install and maintain a grease interceptor and to devise and implement a plan to abate the nuisance created by the FOG discharge through the cleaning, repair or replacement of any sewer facilities obstructed or damaged thereby.

- C. At the reasonable discretion of the Director or at the request of the property owner or operator of the FSE, the City may act immediately to clear or repair any public or private sewer or lateral and contain and clean any SSO caused by the blockage of a private or public sewer or lateral or system serving an FSE. Any cost, expense, liability, fine, penalty or other payment made or incurred by the City to clear or repair any public or private sewer or lateral, or to contain, clean, report and otherwise remediate any SSO, caused by the blockage of any public or private sewer or lateral caused by the discharge of FOG by an FSE shall be borne jointly and severally by the property owner and owner of the FSE and shall constitute a debt to the City, due and payable upon demand and collectable in any manner provided by law

13.40.060 KITCHEN BEST MANAGEMENT PRACTICE (BMP) REQUIREMENTS.

- A. All FSEs shall implement kitchen Best Management Practices in accordance with the requirements and guidelines established by the Director under the FOG Control Program in an effort to minimize the discharge of FOG to the sewer system.
- B. All FSEs shall be required, at a minimum, to implement and comply with the following kitchen Best Management Practices:
1. Drain screens shall be installed on all drainage pipes in food preparation areas.
 2. All waste cooking oil shall be collected and stored properly in recycling receptacles such as barrels or drums. Such recycling receptacles shall be maintained properly to ensure that they do not leak. Waste cooking oil shall be transported by a licensed waste hauler to an approved recycling or disposal site in accordance with all applicable federal, state, and/or local laws.
 3. All garbage and food waste shall be disposed of properly in trash bins or containers, and not in sinks.
 4. Kitchen exhaust filters shall be cleaned as frequently as necessary to be maintained in good operating condition. The wastewater generated from cleaning kitchen exhaust filters, floor mats and kitchen equipment shall be disposed of properly in compliance with these regulations.
 5. Employees of FSEs shall be trained by ownership/ management periodically on the following subjects:

- a. How to “dry wipe/scrape” pots, pans, dishware, utensils, equipment and work areas before washing to remove FOG.
- b. How to properly dispose of garbage, food waste and solids in enclosed plastic bags prior to disposal in trash bins or containers to prevent leaking and odors.
- c. The location and use of absorption products to clean under fryer baskets and other locations where FOG may be spilled or dripped.
- d. How to properly dispose of FOG from cooking equipment into a FOG receptacle such as a barrel, drum or bin without spilling.

Training shall be documented for each employee. Training records shall be available for review at any reasonable time by the Director. Training records shall be retained for a minimum of three (3) years.

13.40.070 PROHIBITIONS; REQUIREMENTS.

- A. Discharge into the sewer system of FOG that may accumulate and/or cause or contribute to blockages in the sewer system including the lower lateral is prohibited.
- B. Installation of food grinders in the plumbing system is prohibited. FSEs shall remove all existing food grinders within 180 days from the effective date of this Chapter.
- C. Introduction of any additives into the plumbing system of an FSE, grease interceptor or grease control device for the purpose of emulsifying or biologically/chemically treating FOG for grease remediation or as a supplement to interceptor maintenance is prohibited.
- D. Disposal of waste cooking oil into the public sewer or storm drain is prohibited.
- E. Discharge of wastewater from dishwashers to any grease interceptor or grease control device is prohibited.
- F. Discharge of wastewater with temperatures in excess of 140°F into any grease interceptor or grease control device is prohibited.
- G. Discharge of wastes from toilets, urinals, wash basins and other fixtures containing fecal materials to sewer lines directed to any grease interceptor or grease control device is prohibited.

- H. Discharge of any waste including FOG and solid materials removed from a grease control device to the public sewer is prohibited. Grease removed from grease interceptors shall be transported to an approved disposal or recycling facility.
- I. Operation of grease interceptors with FOG and solids accumulation exceeding twenty-five percent (25%) of the design hydraulic depth of the grease interceptor is prohibited. The grease and solids layers combined shall not exceed twenty-five percent (25%) of the total interceptor liquid depth.
- J. Increasing the use of water or in any other manner attempting to dilute a discharge as a way of achieving compliance with these regulations is prohibited.

13.40.080 FOG CONTROL REQUIREMENTS.

A. Every FSE is required at the time of construction, remodel, and/or change in operations to install, operate and maintain a grease interceptor necessary to maintain compliance with the objectives of this Chapter, subject to the waiver provisions of Section 13.40.130. The grease interceptor installed shall be adequate to separate and remove FOG contained in wastewater from the FSE prior to discharge to the public sewer as determined by the most current edition of the California Plumbing Code. Fixtures, equipment and drain lines located in the food preparation and clean-up areas of an FSE shall be connected to the grease interceptor. Dishwashers shall not be connected to the grease interceptor.

B. Compliance shall be established as follows:

- 1. New construction of FSEs.

New construction of any FSE shall include complete installation of a grease interceptor prior to commencing discharges of wastewater to the public sewer, unless a waiver is obtained in accordance with Section 13.40.130.

- 2. Existing FSEs.

- a. Any existing FSE, which has caused or contributed to grease-related blockage in the public sewer, has one or more sewer laterals connected to pipelines on the City's "hot spot" list and/or has contributed significant FOG to the public sewer, shall be deemed to have reasonable potential to adversely impact the public sewer and shall be required to install a grease interceptor within one hundred eighty (180) days following issuance of written notification by the Director.

- b. Any existing FSE or FSE that changes ownership or that undergoes remodeling and/or a change in operations, as defined in this Chapter, shall

be required to install a grease interceptor or to obtain a waiver in accordance with Section 13.40.130.

13.40.090 COMMERCIAL AND INSTITUTIONAL PROPERTIES.

Any owner, or official designee, of a commercial and/or institutional property where one or more FSEs are located shall be responsible for the installation and maintenance of the grease interceptor(s) serving the FSEs that are located on that property, as required by this Chapter.

13.40.100 GREASE INTERCEPTOR REQUIREMENTS.

- A. Any FSE required by this Chapter to provide FOG control shall install, operate, and maintain an approved type and adequately sized grease interceptor necessary to maintain compliance with the objectives of this Chapter.
- B. Grease interceptor design, construction, sizing and installation shall conform to the most current edition of the California Plumbing Code. Grease interceptors shall have a minimum of two compartments.
- C. The grease interceptor shall be installed at a location where it shall be at all times easily accessible for inspection, cleaning, and removal of accumulated grease.
- D. An access manhole, with a minimum diameter of twenty-four (24) inches, shall be provided over each grease interceptor chamber and each sanitary tee within the interceptor. The access manholes shall extend at least to finished grade and be designed and maintained to prevent the entry of groundwater or stormwater runoff. The manholes shall also have readily removable covers to facilitate inspection, grease removal, and wastewater sampling activities.
- E. All grease interceptors are required to have grease retention fittings as designed for proper function. Any interceptor that does not have grease retention fittings shall be repaired and/or retrofitted with appropriate grease retention fittings.
- F. No FOG that has accumulated in a grease interceptor shall be discharged into any sewer lateral or public sewer. Additionally, FOG shall not be transferred to or disposed of in a storm drain, public right of way, or onto the surface of any street, sidewalk, landscaping area or parking area.
- G. The required maintenance frequency for every FSE with a grease interceptor shall be determined by the Director pursuant to the following criteria and procedures:

1. All Grease interceptors shall be maintained in efficient operating condition by periodic removal of the full contents of the interceptor, which includes wastewater, accumulated FOG, floating materials, sludge and solids.
 2. Grease interceptors shall be fully pumped out and cleaned once every three (3) months or when the combined FOG and solids accumulation in the grease interceptor equals twenty-five percent (25%) of the design hydraulic depth of the grease interceptor, whichever occurs first. The purpose of the twenty-five percent (25%) rule is to ensure that the minimum hydraulic retention time and required available hydraulic volume are maintained to effectively intercept and retain FOG from being discharged to the public sewer.
 3. If the grease interceptor, at any time, contains FOG and solids accumulation exceeding the requirements described in subsection G(2) of Section 13.40.100, the FSE shall be required by the Director to have the grease interceptor pumped and cleaned as soon as possible, but in no case more than twenty-four (24) hours following issuance of an order to clean by the Director, unless otherwise specified by the Director.
 4. The Director may require any FSE with a grease interceptor to submit data and information necessary to establish the required maintenance frequency of the grease interceptor.
 5. The Director may change the required maintenance frequency at any time to reflect changes in actual operating conditions when sufficient data has been obtained and validated to warrant a different frequency based on the requirements described in subsection G(2) of Section 13.40.100 or other guidelines adopted by the City pursuant to the FOG control program. The required maintenance frequency may increase or decrease based on the actual generation of FOG from the FSE but shall not be less frequent than once every three (3) months unless specific written authorization from the Director is obtained.
- H. Wastewater, accumulated FOG, floating materials, sludge/solids, and other materials removed from the grease interceptor shall be transported by a licensed waste hauler to an approved recycling or disposal site in accordance with all applicable federal, state, and/or local laws. FSEs shall obtain and maintain a copy of the waste hauler's documentation which shall include:
1. Name of the hauling company.
 2. Name and signature of the operator performing the pump out.

3. Documentation of a full pump out indicating the total volume of water and FOG removed in gallons.
 4. Documentation of the level by percentage of the combined FOG and solids accumulation in the interceptor in order to determine compliance with the twenty-five percent (25%) rule.
 5. Documentation regarding whether repairs to the grease interceptor are required.
 6. Identification of the facility where the waste hauler has transported the waste.
- I. The Director may direct City staff or a City contractor to pump and clean an FSE's grease interceptor if the FSE has failed to comply with the terms of this Chapter. The FSE jointly and severally with the property owner shall be responsible for any and all expenses of the City in undertaking such work and such expenses are deemed a debt of the owner of the pertinent FSE and the property owner to the City, enforceable and collectable as provided by law.
 - J. Abandoned grease interceptors shall be immediately emptied and filled with a suitable material as required for abandoned septic tanks as specified in the most current edition of the California Plumbing Code by the property owner.

13.40.110 FACILITIES AND DRAWING SUBMITTAL REQUIREMENTS.

Upon request by the Director:

- A. Any FSE and/or property owner may be required to submit to the City two (2) copies of facility site plans, floor plans, mechanical and plumbing plans, detail drawings showing all sewer locations and connections, and schematic drawings of grease interceptors, FOG control devices or other FOG control equipment and appurtenances by size, location and elevation. The submittal shall be in a form and content acceptable to the Director for review of the existing or proposed grease control device, monitoring facilities, metering facilities, and operating procedures. The review of the plans and procedures shall in no way relieve the FSE of the responsibility of modifying the facilities or procedures in the future as necessary to produce an acceptable discharge, and to meet the requirements of this Chapter or the requirements of any other regulatory agency.
- B. The Director may require the drawings be prepared by a California registered civil, chemical, mechanical, or electrical engineer.

13.40.120 RECORDKEEPING REQUIREMENTS.

The FSE and the property owner shall be required to maintain on the FSE premises copies of all documentation required in this Chapter for no less than three (3) years. The FSE and the property owner shall, upon request, make the documentation readily available for inspection at any time to the Director, any inspector and/or enforcement officer and the public. Required documentation shall include:

- A. A record or logbook of grease interceptor and/or grease control device cleaning and maintenance practices and activities.
- B. A record or logbook of kitchen BMPs being implemented, including employee training.
- C. Copies of waste hauling records and manifests for grease interceptor contents and waste oil disposal and recycling.
- D. Records of solids accumulation in the grease interceptor to determine compliance with the twenty-five percent (25%) rule.
- E. Records of all sampling data.
- F. Records of any spills and/or cleaning of the sewer lateral or public sewer.
- G. Any other information necessary to ensure compliance with this Chapter

13.40.130 WAIVER OF GREASE INTERCEPTOR REQUIREMENTS.

- A. Subject to the limitations contained in subsections B and C of this Section, the Director may grant a conditional waiver of the requirement to install a grease interceptor.
- B. The Director may grant for new construction, including remodels, a conditional waiver to any FSE and/or property owner that the Director determines to have negligible FOG discharge and insignificant impact to the public sewer. Notwithstanding the granting of a conditional waiver however, the FSE or property owner may nonetheless be required to provide space and plumbing segregation for future installation of a grease interceptor. In making the determination as to whether to grant the conditional waiver, the Director shall make all of the following findings:
 - 1. The quantity of FOG discharge as measured or indicated by the size of the FSE based on kitchen ventilation requirements, water usage, menu, seating capacity, number of meals served, amount of on-site consumption of prepared food, number of plumbing fixtures and other conditions does

not indicate that the FSE will materially contribute to existing or potential FOG discharges.

2. The FSE does not appear to be a significant contributor of FOG into the sewer system, which is based on an inspection of the property or sampling of FOG discharged from the FSE to the sewer system.
 3. The FSE has adopted and implemented adequate BMPs and has no recent history of non-compliance with the City's FOG related regulations and requirements.
 4. The size, grade and condition of the sewer lines serving the FSE do not indicate that the FSE has discharged an excessive amount of FOG in the sewer, and the history of maintenance, blockages and SSOs in the public sewer lines receiving flow from the FSE do not deviate substantially from those experienced in other adjacent sewer lines.
 5. There is no reason to believe that the operations of the FSE will change in the foreseeable future in a manner that may significantly increase the amount of FOG the FSE will discharge.
 6. There is no other condition reasonably related to the generation of FOG discharges into the sewer by the FSE that will, in the sound judgment of the Director, warrant the denial of the conditional waiver in the interest of protecting the public health, safety and welfare.
- C. Where the installation of a grease interceptor in an existing structure is not feasible, an FSE and/or property owner may be granted a conditional waiver of the grease interceptor requirement upon the payment of a grease disposal mitigation fee as described in Section 13.40.180. Additional requirements may also be imposed to mitigate the discharge of FOG into the public sewer. The Director's determination to grant the waiver upon the payment of a grease disposal mitigation fee will be based upon one or more of the following findings:
1. There is inadequate space for installation and/or maintenance of a grease interceptor.
 2. There is inadequate slope for gravity flow between kitchen plumbing fixtures and the proposed grease interceptor and/or between the proposed grease interceptor and the upper lateral, the lower lateral, or the public sewer.
 3. Any other condition reasonably related to the installation, operation, maintenance and/or inspection of a grease interceptor, which makes installation and/or maintenance of a grease interceptor infeasible.

D. Application for conditional waiver of requirement for grease interceptor.

An FSE or property owner may submit to the Director an application for conditional waiver from the grease interceptor requirement. The party applying for the conditional waiver bears the burden of demonstrating that the installation of a grease interceptor is not feasible or otherwise required. A waiver may be issued upon determination by the Director that reasons are sufficient to justify such a waiver, as provided in subsections B and C of this Section 13.40.130.

E. Terms and conditions of waiver.

The conditional waiver shall contain the terms and conditions that serve as the basis for its issuance. A waiver may be revoked by the Director at any time upon his or her determination that any of the terms or conditions for its issuance have not been satisfied or if the conditions upon which the waiver was based have changed so that the justification for the waiver no longer exists. The waiver shall be valid so long as the FSE remains in compliance with the terms and conditions, until the expiration date specified in the waiver, or until the conditional waiver is revoked.

F. Revocation of conditional waiver of the requirement to install a grease interceptor.

The Director may revoke any conditional waiver of the requirement to install a grease interceptor granted pursuant to this Section 13.40.130, subject to the procedures and limitations provided in this subsection F.

1. Should the Director determine that, due to changed circumstances or failure to comply with the terms or conditions imposed upon the issuance of the conditional waiver, a conditional waiver that was previously issued and remains valid should be revoked, the Director shall provide notice by regular mail to the owner of the affected FSE and the property owner no less than thirty (30) days prior to the proposed effective date of the revocation. The notice shall provide an explanation of the facts and circumstances that the Director has determined warrant revocation of the conditional waiver and an opportunity to respond in writing to the Director with information and evidence to justify the continuation of the conditional waiver in accordance with its terms and conditions.
2. Prior to making the final determination to revoke a conditional waiver the Director shall review and consider the written information provided pursuant to subsection F (1) of this Section.

3. The determination of the Director to revoke a conditional waiver granted pursuant to this Section shall be set forth in a writing provided to the owner of the affected FSE and the property owner by regular mail, and shall be based on the Director's reasonable determination that one or more of the following circumstances exists or has occurred:
 - a. The owner of the affected FSE and/or the property owner has failed to abide by any term or condition imposed upon the conditional waiver;
 - b. One or more of the findings made by the Director pursuant to subsection B or C of this Section, due to changes in the operation of the FSE, changes in the condition, use or available capacity of the sewers serving the FSE or other changed circumstances, are no longer true; or
 - c. A Change in Law bearing upon the use or operation of the City's sanitary sewer system requires the revocation of the conditional waiver.

13.40.140 FACILITIES MONITORING AND RIGHT OF ENTRY REQUIREMENTS.

- A. The Director may require the FSE or property owner to construct and maintain in proper operating condition at their sole expense, flow monitoring, water quality monitoring and/or sampling facilities.
- B. The location of the monitoring facilities shall be representative of actual discharge conditions.
- C. FSEs and/or owners of premises where wastewater is generated and discharged to the sewer system shall allow the Director and his or her designees immediate and safe access to all parts of the wastewater generating and disposal facilities for the purposes of inspection and sampling during all times the FSE is open, operating, or any other reasonable time.
- D. The FSE or property owner shall, upon request, submit to the Director waste analysis plans, contingency plans, and other necessary information to verify compliance with these regulations.
- E. Testing procedures for waste constituents and characteristics shall be as provided in 40 Code of Federal Regulations 136
- F. In the event of an emergency involving an actual or imminent SSO, the Director and his or her designees may access adjoining businesses or properties that

share a public sewer with an FSE in order to prevent or remediate the actual or imminent SSO.

13.40.150 MONITORING AND REPORTING CONDITIONS.

- A. The Director may require periodic reporting of the status of implementation of kitchen BMPs, in accordance with the FOG control program.
- B. If, following an inspection of the FSE, it is apparent that the FSE has not used or maintained its grease interceptor or grease removal device, has failed to properly implement kitchen BMPs, or has failed to abide by any condition imposed upon a conditional waiver granted pursuant to Section 13.40.130 of this Chapter, the Director may require visual closed circuit television inspection at the sole expense of the FSE or property owner to observe the actual conditions of the sewer lateral serving the property and sewer lines downstream.
- C. The Director may require reports for self-monitoring of wastewater constituents and FOG characteristics from the FSE or property owner needed for determining compliance with any conditions or requirements as specified in this Chapter. Monitoring reports of the analyses of wastewater constituents and FOG characteristics shall be in a manner and form approved by the Director and shall be submitted upon request of the Director. Failure by the FSE or property owner to perform any required monitoring, or to submit monitoring reports required by the Director constitutes a violation of this Chapter and shall be cause for the City to initiate all necessary tasks and analyses to determine the wastewater constituents and FOG characteristics for compliance with any conditions and requirements specified in this Chapter. The FSE and property owner shall be responsible for any and all costs and expenses of the City in undertaking such monitoring analyses and preparation of reports and such costs and expenses are deemed a debt of the owner of the pertinent FSE and the property owner to the City, enforceable and collectable as provided by law.
- D. Other reports may be required by the Director, such as compliance schedule progress reports, FOG control monitoring reports, grease interceptor and grease removal device operation and maintenance reports, and any other reports deemed reasonably appropriate by the Director to ensure compliance with this Chapter.

13.40.160 INSPECTIONS AND SAMPLING CONDITIONS.

- A. The Director may inspect and sample or order the inspection and sampling of the wastewater discharges of any FSE to ascertain whether the intent of these regulations is being met and the FSE is complying with all requirements. The FSE shall allow access to the FSE premises, during normal business hours, for

purposes of inspecting the FSE's grease control devices or interceptor, reviewing the manifests, receipts and invoices relating to the cleaning, maintenance and inspection of the grease control devices or interceptor.

- B. The Director shall have the right to place or order the placement on the FSE's property, or other locations as determined by the Director, such devices as are necessary to conduct sampling or metering operations. Where an FSE or property owner has security measures in force, the FSE or property owner shall make necessary arrangements so that the Director and/or an inspector shall be permitted to enter without delay for the purpose of performing their specific responsibilities.
- C. In order for the Director to determine the wastewater characteristics of the FSE for purposes of determining compliance with this Chapter, the FSE shall make available for inspection and copying by the Director, an inspector, an enforcement officer and/or service personnel, all notices, monitoring reports, waste manifests, and records including, but not limited to, those related to wastewater generation and wastewater disposal. All such records shall be kept by the FSE a minimum of three (3) years.

Article III. Charges and Fees

13.40.170 PURPOSE OF CHARGES AND FEES.

It is the purpose of Section 13.40.180 to provide for the recovery of costs from FSEs and owners of property containing FSEs for the implementation of the program established in this Chapter.

13.40.180 CHARGES AND FEES.

- A. The City shall adopt charges and fees by resolution which may include:
 - 1. Fees for reimbursement of the costs to set-up, implement and operate the City's FOG program;
 - 2. Other fees as the City may deem necessary to carry out the requirements contained in this Chapter.
- B. Costs incurred by the City for, or as a result of, any and all required on-site sampling and analysis are deemed a debt of the owner of the pertinent FSE and the property owner to the City, enforceable and collectable as provided by law.
- C. Costs incurred by the City for closed circuit television inspection to observe the actual conditions of an FSE's sewer lateral and sewer lines downstream are

deemed a debt of the owner of the pertinent FSE and the property owner to the City, enforceable and collectable as provided by law.

D. Noncompliance charge

Any FSE and/or property owner determined to be in noncompliance with the terms and conditions specified in any provision of this Chapter may be required to pay a noncompliance charge. The purpose of the noncompliance charge is to reimburse the City for costs of additional inspection and follow-up, 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 Section 13.40.250. Noncompliance charges shall be in the amount reasonably determined by the Director.

E. Grease disposal mitigation fee

1. Any FSE and/or property owner subject to the provisions of subsection C of Section 13.40.130 of this Chapter shall be required to pay an annual grease disposal mitigation fee to reimburse the City for the costs of increased maintenance of the public sewer as a result of the FSE's inability to adequately remove FOG from its wastewater discharge. This Section shall not be interpreted to allow a new FSE or an existing FSE undergoing remodeling and/or a change in operations to operate without an approved grease interceptor unless the Director has determined that it is impossible or impracticable to install and/or operate a grease interceptor for the subject facility pursuant to the provisions of Section 13.40.130 of this Chapter.
2. The grease disposal mitigation fee for each FSE shall be based on the estimated annual increased cost of maintaining the public sewer for inspection and removal of FOG and other viscous or solidifying agents attributable to the FSE resulting from the lack of a grease interceptor.

Article IV. Administration

13.40.190 FALSIFYING INFORMATION OR TAMPERING WITH PROCESS.

It shall be unlawful to make any false statement, representation; record; report; plan or other document that is filed with the City and/or the Director, or to tamper with or knowingly render inoperable any grease control device, monitoring device or method or access point required under this Chapter.

13.40.200 NOTIFICATION OF SPILL.

- A. In the event an FSE or property owner is unable to comply with any provision of this Chapter due to a breakdown of equipment, accidents, or human error or the FSE or property owner has reasonable opportunity to know that their discharge will exceed the discharge provisions of this Chapter, the FSE and property owner shall immediately notify the Wastewater Division by telephone. If material is discharged by an FSE to the public sewer that the owner of the FSE and/or the property owner believes or reasonably should believe has the potential to cause or result in an imminent sewer blockage or SSO, the FSE and property owner shall immediately notify the Wastewater Division.
- B. Confirmation of this notification shall be made in writing to the Director postmarked no later than two (2) calendar days from the date of the incident. The written notification shall state the date of the incident, to whom the FSE and/or property owner provided notification, 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 the FSE or the property owner 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 persons or property; nor shall such notification relieve the FSE or the property owner of any fees, charges or other liability which may be imposed by these regulations or other applicable law.

13.40.210 NOTIFICATION OF PLANNED CHANGES.

- A. The FSE and the property owner shall notify the Wastewater Division at least sixty (60) days prior to any facility expansion or remodeling, process modifications that may result in new or substantially increased FOG discharges, or a change in the nature of the discharge. The FSE and the property owner shall notify the Wastewater Division in writing of the proposed expansion or remodeling and shall submit any information requested by the Wastewater Division for evaluation of the effect of such expansion or remodeling on the FSE's FOG discharge to the public sewer.

Article V. Enforcement

13.40.220 HARMFUL DISCHARGE; IMMEDIATE SUSPENSION OR TERMINATION OF WASTEWATER SERVICE.

- A. The City may immediately suspend or terminate the wastewater service of an FSE and property owner when such suspension or termination is necessary in order to stop an actual or imminently threatened discharge that is in violation of law, including but not limited to, the following:

1. An imminent or substantial endangerment to the health or welfare of people or the environment,
 2. An obstruction to the wastewater collection system, or
 3. Any circumstance that is likely to cause a violation of any relevant permit or Waste Discharge Requirement of the City, or any applicable law, unless immediate action is taken to prevent its occurrence.
- B. Any person notified of a suspension or termination of wastewater service shall immediately stop or eliminate all discharges to the public sewer. In the event of a failure of the person to comply voluntarily with the suspension or termination order, the Director shall take such steps as he or she deems necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the environment, collection system and/or the Regional Wastewater Control Facility. The Director may reinstate the wastewater service only upon proof that the circumstance that caused the suspension or termination of wastewater service has been adequately addressed and the circumstance no longer presents a danger to the environment or to the City's wastewater system. A detailed written statement submitted by the FSE and the property owner describing the cause of the harmful discharge and the measures taken to prevent any future occurrence shall be submitted to the Director within fifteen (15) days of the effective date of the suspension or termination.

13.40.230 FAILURE TO COMPLY WITH FOG REGULATIONS; SUSPENSION AND/OR TERMINATION OF WASTEWATER SERVICE.

- A. In accordance with the procedures and limitations provided in subsection B of Section 13.40.220, the Director may suspend and/or terminate wastewater service to an FSE and property owner when the Director determines that the FSE has failed to comply with the requirements of this Chapter, with respect to any of the following particulars:
1. Failed to comply with the terms and conditions of a compliance schedule order.
 2. Knowingly provided a false statement, representation, record, report, or other document to the City and/or the Director.
 3. Refused to provide records, reports, plans, or other documents required by the City and/or the Director to determine compliance with this Chapter.
 4. Falsified, tampered with or knowingly rendered inaccurate any monitoring device or sample collection method.

5. Refused reasonable access to the FSE for the purpose of inspection and monitoring.
 6. Failed to make timely payment of all amounts owed to the City imposed pursuant to this Chapter.
 7. Discharged FOG that caused an obstruction or sewer blockage in the public sewer or an SSO.
 8. Violated grease interceptor maintenance requirements or any provision of this Chapter pertaining to maintenance and operation of any grease interceptor or grease control device.
 9. Failed to report significant changes in operations, or wastewater constituents and characteristics.
- B. For the purpose of making the determination of non-compliance pursuant to subsection A of this Section, the Director may rely upon any evidence or information available and may gather other necessary information as needed through imposition of reasonable sampling and inspection requirements conducted at a time, location, manner, and frequency determined at the reasonable discretion of the Director. The inspections may include, but are not limited to, inspection of the grease control device, grease interceptor and associated manifests and documentation, or analysis of a grab or composite sample of the wastewater discharged from the FSE.

13.40.240 COMPLIANCE TIME SCHEDULE IN LIEU OF SUSPENSION OR TERMINATION OF WASTEWATER SERVICE.

- A. Upon determination that an FSE is in noncompliance with the terms and conditions specified in any provision of this Chapter, or needs to construct and/or acquire and install a grease control device or grease interceptor, the Director may require the FSE to enter into a compliance time schedule on terms and conditions specified by the Director.
- B. The compliance time schedule may contain terms and conditions including, but not limited to, requirements for installation of a grease control device, submittal of drawings or reports, audit of waste hauling records, BMPs and waste minimization practices, payment of fees, or other provisions to ensure compliance with this Chapter.
- C. If compliance is not achieved in accordance with the terms and conditions of a compliance time schedule during its term, the Director may issue an order

suspending or terminating wastewater service pursuant to Section 13.40.230 of this Chapter.

13.40.250 VIOLATIONS AND PENALTIES.

- A. Violations of this Chapter are misdemeanors as provided in Section 1.08.010 of this Code.
- B. Any FSE or property owner in violation of this Chapter, or the orders, rules and regulations issued under this Chapter may be ordered by the Director to cease and desist operations until the violation is cured. Continuance of operations after notice to cease and desist has been furnished to the FSE and/or property owner shall be unlawful and a misdemeanor as provided in Section 1.08.010 of this Code. Each day in which any such violation shall continue shall be deemed a separate offense.
- C. The violation of any of the provisions of this Chapter, or the orders, rules and regulations issued under this Chapter, or the doing of any act prohibited or the failure or omission to do any act required by this Chapter, or the orders, rules and regulations issued under this Chapter, is a public nuisance and may be enjoined through a civil action brought by the City Attorney.
- D. If any violation of this Chapter, or the orders, rules and regulations issued under this Chapter, causes damage to the public sewer and/or the Regional Wastewater Control Facility, the FSE jointly and severally with the property owner causing such damage shall be liable therefore and the cost thereof shall be deemed a debt to the City, enforceable and collectable as provided by law.
- E. To remedy violations of this Chapter, the Director is authorized to issue Notices of Violation, Administrative Citations and impose Administrative Civil Penalties pursuant to Title 1 of this Code.
- F. The remedies and provisions of this Section are cumulative, and are in addition to any other remedy or provision of law.

13.40.260 APPEALS.

- A. Any FSE or property owner affected by a decision, action, or determination, including suspension, revocation, refusal or termination of wastewater service, cease and desist order, or imposition of civil penalties issued by the Director, or any other action of the Director in interpreting or implementing the provisions of this Chapter, may file with the Director a written request for reconsideration within ten (10) days of such decision, action, or determination, setting forth in detail the facts supporting the request for reconsideration. The Director shall provide a written decision regarding the request for reconsideration within thirty (30) days

following the filing of the request for reconsideration. The Director shall serve the written decision upon the affected FSE and/or property owner by either personal service, facsimile, overnight courier or regular mail.

- B. Any FSE or property owner aggrieved by the decision of the Director regarding a request for reconsideration specified in this Section 13.40.260 may appeal said decision and request an administrative hearing and decision in accordance with the procedures set forth in Title 1, Chapter 1.44, Section 1.44.070, of this Code by filing with the Director a written appeal within ten (10) days of such action setting forth in detail the facts supporting the appeal. The administrative hearing shall be conducted in accordance with procedures set out in Chapter 1.44 of this code and the administrative order shall be final.

SECTION III. SEVERABILITY.

If any part of this Ordinance is held invalid for any reason, such decision shall not affect the validity of the remaining portion of this Ordinance, and the City Council hereby declares that it would have passed the remainder of this Ordinance, if such invalid portion thereof had been deleted.

SECTION IV. EFFECTIVE DATE.

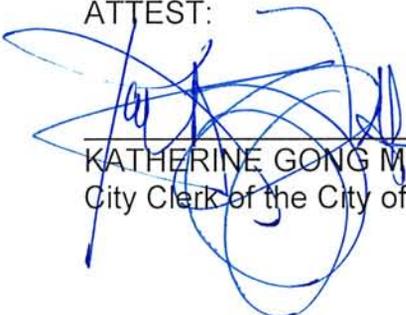
This Ordinance shall become effective thirty (30) days from and after its adoption.

ADOPTED: JAN 26 2010

EFFECTIVE: FEB 25 2010


ANN JOHNSTON, Mayor
of the City of Stockton

ATTEST:



KATHERINE GONG MEISSNER
City Clerk of the City of Stockton



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