

LEE COUNTY ORDINANCE NO. 05-02

AN ORDINANCE RELATING TO GREASE MANAGEMENT IN LEE COUNTY; REPEALING LEE COUNTY ORDINANCE NOS. 97-16 AND 85-11; AND REPEALING SECTIONS A2.04, A2.05, AND A2.06 IN ORDINANCE NO. 83-11; AND REPEALING SECTION II.3.(C) & (d) IN ORDINANCE NO. 87-24; PROVIDING FOR SHORT TITLE, PURPOSE AND TERRITORIAL SCOPE; PROVIDING DEFINITIONS; PROVIDING FOOD SERVICE ESTABLISHMENTS; PROVIDING FOR ENTRY, INSPECTION AND SAMPLING; PROVIDING FOR ENFORCEMENT, REVIEW COMMITTEE, MEETINGS, CITATION, INJUNCTIVE RELIEF AND DAMAGE ASSESSMENTS PLAN; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Lee County, Florida is the governing body in and for Lee County, Florida; and

WHEREAS, the Board of County Commissioners of Lee County, Florida is authorized pursuant to Chapter 125, Florida Statutes, to enact Ordinances necessary in the exercise of its powers; and

WHEREAS, wastewater discharges containing high concentrations of fats, oils and grease from restaurants and other food service establishments contribute to more than half of the blockages or sanitary sewer overflows in the Lee County Utilities' wastewater collection system; and

WHEREAS, the County desires to be proactive in complying with the Clean Water Act (CWA) and cooperating with the Environmental Protection Agency (EPA) initiative to

abate sanitary sewer overflows within unincorporated Lee County in order to protect the public health and the quality of surface water; and

WHEREAS, Lee County has adopted Ordinances related to Grease Management and adopted Water and Sewer Ordinances which contained provisions related to Grease Management. Lee County desires to establish one Ordinance that addresses all aspects of Grease Management establishing uniform requirements, provisions and regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:

SECTION ONE: **SHORT TITLE, PURPOSE AND TERRITORIAL SCOPE**

The County has developed a Grease Management program that includes a change to the County code. All prior Lee County Ordinances related to Grease Management are repealed specifically, Lee County Ordinances No. 97-16 and 85-11 are hereby repealed. Sections A2.04, A2.05, and A2.06 of Lee County Ordinance 83-11, and Section II.3.(c) and (d) of Lee County Ordinance 87-24 are hereby repealed.

- A. This Ordinance will be known and cited as the Lee County Grease Management Ordinance.
- B. The purpose of this Ordinance is to establish uniform requirements for food service establishments discharging grease wastewater into the Lee County Utilities wastewater collection system and to enable the County to comply with all applicable Federal and State laws, including those, which apply to sanitary sewer overflows.
- C. The territorial scope of this Ordinance includes all areas of unincorporated

Lee County in which the wastewater collection system is owned and maintained by Lee County Utilities.

SECTION TWO: **DEFINITIONS**

For the purpose of this article, the following words and phrases are defined and shall have the meaning assigned except in those instances where the context clearly indicates a different meaning. The words "shall" and "will" are mandatory and not discretionary. The word "may" is permissive.

- A. *Control Authority* shall mean the Lee County Utilities Director or designee.
- B. *Environmental Protection Agency (EPA)* shall mean the Federal Environmental Protection Agency of the United States, its Administrator, or other duly authorized representative of said agency.
- C. *Food Service Establishment* shall mean any facility engaged in preparing and/or packaging food or beverages for sale or consumption, on or off site, with the exception of private residences. Food service establishments shall include, but are not limited to food courts, food manufacturers, food packagers, restaurants, grocery stores, convenience stores, bakeries, cafeterias, lounges, hospitals, correctional facilities, hotels, nursing homes, churches, and schools.
- D. *Floatable Grease* shall mean oil, fat or grease in a physical state such that it will separate, by gravity, from wastewater by treatment in an approved pretreatment device.
- E. *Garbage Grinder* shall mean a device that shreds or grinds up solid or

semisolid waste materials into smaller particles for discharge into the wastewater collection system.

- F. *Grab Sample* shall mean a sample that is taken from a wastewater discharge on a one-time basis with no regard to the volume of flow in the discharge.
- G. *Gray Water* shall mean all of the liquid contained in a grease interceptor that lies below the floating grease layer and above the food solids layer.
- H. *Grease* shall mean a material either liquid or solid, composed primarily of fat, oil and grease from animal or vegetable sources. The terms “fats, oils and grease” (FOG) and “oil and grease” shall be included within this definition.
- I. *Grease Interceptor* shall mean a device whose rated flow exceeds 50 gpm, which has a minimum storage capacity of 750 gallons or more, and is located underground and outside a food service establishment. This device is designed to collect, contain and remove food wastes and grease from the waste stream while allowing the balance of the liquid waste to discharge to the wastewater collection system by gravity.
- J. *Grease Laden Waste* shall mean liquid waste from the kitchen fixtures which contains 100 mg or more grease/L.
- K. *Grease Trap* shall mean a device, whose rated flow is less than 50 gpm, located inside a food service establishment and designed to collect, contain and remove food wastes and grease from the waste stream while allowing the balance of the liquid waste to discharge to the wastewater collection system by gravity.

- L. *Notice of Violation (NOV)* shall mean a written notice informing a user that a violation of this Ordinance has occurred.
- M. *Notify* shall mean contact by telephone, in person, or via certified United States Mail, return receipt requested.
- N. *Premises* shall mean a parcel of real estate or portion thereof including any improvements thereon which is determined by the Control Authority to be a single user for the purposes of receiving, using and paying for sewer services.
- O. *Pretreatment Review Committee* shall mean a panel made up of the following individuals whose main function is to review user appeals relating to grease issues, Chief Building Inspector or designee, Utilities Director or designee, and the Pretreatment Coordinator or designee. The County Attorney or designee shall serve as a non-voting member of the panel providing substantive and procedural legal advice to the Pretreatment Review Committee.
- P. *Publicly Owned Treatment Works (POTW)* shall mean a treatment works, also referred to as a Wastewater Treatment Plant, as defined by Section 212,CWA, (33 U.S.C. 1292) which is owned by the County. Any devices and systems used to pump, store, treat, recycle and reclaim municipal sewage or industrial wastes of a liquid nature. POTW shall include piping and County owned and maintained lift stations and pump stations that convey wastewater to the POTW. Any sewers that convey waste waters to the

POTW from persons outside the County who are users of the POTW by contract or agreement with the County.

- Q. *Replacement Costs* shall mean expenditures for obtaining and installing equipment, accessories or appurtenances necessary to retain design capacity and performance of the POTW throughout the jurisdiction of the County.
- R. *Sanitary Sewer Overflow* shall mean releases of untreated sewage into the environment.
- S. *Utilities Director* shall mean the person designated by the County to administer the activities of the Utilities Division, supervise the operation of the POTW, maintain records of such operation, prepare operating budgets and make recommendations to the Lee County Board of County Commissioners concerning activities within his responsibility and authority. The Utilities Director shall comply with all applicable public participation requirements of Section 101(e) of the CWA.
- T. *Wastewater* shall mean the liquid and water containing industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, institutions and any other source, whether treated or untreated which is contributed to or permitted to enter the POTW.

SECTION THREE: FOOD SERVICE ESTABLISHMENTS

A. General:

All food service establishments are required to have a grease trap or

grease interceptor as per the requirements of the Florida Building Code as may be amended from time to time. A grease trap/interceptor inspection fee of one dollar twenty cents (\$1.20) per interceptor/trap, per month is hereby imposed and may be amended from time to time through a Rate Resolution approved by the Lee County Board of County Commissioners pursuant to this Ordinance. Such fee shall be paid through the Lee County Utilities monthly service bill by all food service establishments required to install and maintain grease traps/interceptors pursuant to State regulations.

B. New Facilities:

Upon the effective date of this Ordinance, food service establishments which are newly proposed or constructed, or existing facilities which will be expanded or renovated, where such facility did not previously exist, shall be required to install, operate and maintain a grease interceptor or grease trap according to the requirements of the Florida Building Code.

C. Existing Facilities:

For the purposes of sizing and installation of grease interceptors, all food service establishments existing within the County prior to the effective date of this Ordinance shall be permitted to operate and maintain existing grease interceptors or grease traps provided same are in efficient operating condition. Upon the effective date of this Ordinance, the County may require an existing food service establishment to install, operate and maintain a new grease interceptor or trap that complies with the requirements of this

Ordinance or to modify or repair any noncompliant plumbing or existing interceptor or trap within ninety (90) days of written notification by the County when any one or more of the following conditions exist:

1. The facility is found to be contributing oils and grease in quantities sufficient to cause line stoppages or necessitate increased maintenance on the wastewater collection system; and/or
2. The facility is found to be contributing oils and grease in quantities in excess of 100 mg/L; and/or,
3. The facility has an undersized, irreparable or defective grease interceptor or trap; and/or,
4. The facility has a garbage grinder; and/or,
5. Remodeling of the food preparation or kitchen waste plumbing system is performed which requires a plumbing or building permit to be issued; and/or,
6. The existing facility is sold or undergoes a change of ownership.

D. Plumbing Connections:

Grease interceptors or traps shall be located in the food service establishment's lateral sewer line between all fixtures, which may introduce grease into the sewer system and the connection to the County's wastewater collection system. Such fixtures shall include but not be limited to, sinks, dishwashers, automatic hood wash units, floor drains in food preparation and storage areas, and any other fixture which is determined to be a potential

source of grease. Garbage grinders installed within food service establishments shall be plumbed through the grease interceptor(s) and a solids interceptor shall separate the discharge before connecting to the grease trap. Solids interceptors and grease interceptors shall be sized and rated for the discharge of the garbage grinder. Wastewater from sanitary facilities and other similar fixtures shall not be introduced into the grease interceptor or trap under any circumstances.

E. Grease Traps:

Approval of the installation of a grease trap instead of a grease interceptor at a new food service establishment shall be as specified in the Florida Building Code. All food service establishments shall comply with the following guidelines:

1. Inspection, Cleaning and Maintenance:

Each food service establishment shall be solely responsible for the cost of trap installation, inspection, cleaning and maintenance. Cleaning and maintenance must be performed when the total volume of captured grease and solid material displaces more than twenty percent (20%) of the total volume of the unit. Each food service establishment shall determine the frequency at which their grease trap shall be cleaned, but all grease traps shall be opened, inspected, and maintained at a minimum of once per week.

2. Repairs:

The food service establishment shall be responsible for the cost and scheduling of all repairs to its grease trap(s). Repairs required by the Control Authority shall be completed within ten (10) calendar days after the date of written notice of required repairs is received by the facility, unless the County approves in writing of a different schedule.

3. Disposal:

Grease and solid materials removed from a grease trap shall be disposed of in the solid waste disposal system.

F. Grease Interceptors:

Grease interceptors shall be installed at all new food service establishments as specified by the Florida Building Code. All food service establishments shall comply with the following guidelines:

1. Inspection, Pumping, and Maintenance:

Each food service establishment shall be responsible for the costs of installing, inspecting, pumping, cleaning and maintaining its grease interceptor. Pumping services shall include the initial complete removal of all contents, including floating materials, wastewater and bottom sludge and solids from the interceptor. Grease interceptor cleaning shall include scraping excessive solids from the walls, floors, baffles and all pipe work. The return of gray water back into the grease interceptor from which the wastes were removed is allowable,

provided that grease and solids are not returned to the interceptor. The grease hauler shall wait at least twenty (20) minutes to allow the interceptor waste to separate in the truck tank before attempting to re-introduce the gray water to the interceptor. It shall be the responsibility of each food service establishment to inspect its grease interceptor during the pumping procedure to ensure that the interceptor is properly cleaned out and that all fittings and fixtures inside the interceptor are in working condition and functioning properly.

2. Interceptor Pumping Frequency:

Each food service establishment shall determine the frequency at which its grease interceptor(s) shall be pumped according to the following criteria:

- a. When the floatable grease layer exceeds six inches (6") in depth as measured by an approved dipping method; or,
- b. When the settleable solids layer exceeds eight inches (8") in depth as measured by an approved dipping method; or,
- c. When the total volume of settable solids is more than three quarters ($3/4$) of the total clearance of the outlet pipe located at the bottom of the interceptor; or,
- d. When the total volume of captured grease and solid material displaces more than twenty percent (20%) of the capacity of the interceptor as calculated using an approved dipping

method; or,

- e. When the interceptor is not retaining/capturing oils and greases; or the oil/grease concentration of the water being discharged, as determined through sampling and analysis, is greater than 100 mg/L.

3. Repairs:

Each food service establishment shall be responsible for the cost and scheduling of all repairs to its grease interceptor(s). Repairs required by the Control Authority shall be completed within ten (10) calendar days after written notice is received by the facility unless the Control Authority establishes a different compliance date.

4. Disposal:

Wastes removed from each grease interceptor shall be disposed of at a facility permitted to receive such wastes or at a location designated by the County for such purposes. Neither grease nor solid materials removed from interceptors shall be returned to any grease interceptor, private sewer line or to any portion of the County's wastewater collection system.

G. Interceptor Additives:

Any chemicals, enzymes, emulsifiers, live bacteria or other grease cutters or additives shall be approved by the Control Authority prior to their use by the food service establishment or the grease hauler. Material Safety

Data Sheets and any other applicable information concerning the composition, frequency of use and mode of action of the proposed additive shall be sent to the Control Authority together with a written statement outlining the proposed use of the additive(s). Based upon the information received and any other information solicited from the potential user or supplier, the Control Authority shall permit or deny the use of the additive in writing. Permission to use any specific additive may be withdrawn by the Control Authority at any time.

H. Alternative Grease Removal Devices or Technologies:

Alternative devices and technologies such as automatic grease removal systems shall be subject to written approval by the Control Authority prior to installation. Approval of the device shall be based on demonstrated (proven) removal efficiencies and reliability of operation. The Control Authority may approve these types of devices depending on manufacturers' specifications on a case-by-case basis. The food service establishment may be required to furnish analytical data demonstrating that grease discharge concentrations to the County wastewater collection system will not exceed the established limitation.

SECTION FOUR: **ENTRY, INSPECTION AND SAMPLING**

A. Entry:

All food service establishments shall allow the Control Authority, bearing proper credentials and identification, access to all parts of the

premises during reasonable business hours, for the purpose of inspection, observation, and sampling in accordance with the provisions of this Ordinance. Any user refusing the Control Authority entry to or upon the premises of the user for the purposes of inspection, sampling effluents or performing such other duties as required by this Ordinance shall constitute a violation of the terms of this Ordinance. The Control Authority may seek a warrant or use any other legally available procedures to discharge their duties.

B. Inspection and Sampling:

The Control Authority may inspect the facilities of any food service establishment, to ascertain compliance with this Ordinance. Grease interceptors and traps shall be inspected as necessary to insure compliance with specific grease trap/interceptor requirements and to determine if proper cleaning and maintenance schedules are being performed. The Control Authority may collect effluent samples to determine compliance. The Control Authority shall re-inspect any user that received a deficiency notice after the original inspection. In the event that the user is compliant with all of the deficiencies, there shall be no charge for the re-inspection. In the event of continuing non-compliance, successive re-inspections will be scheduled and appropriate fees shall be charged to the user for the first and all successive re-inspections. Such fees may be charged to the appropriate account of the Lee County Utilities Water & Sewer bill.

SECTION FIVE: **ENFORCEMENT, REVIEW COMMITTEE, MEETINGS,**
CITATION, INJUNCTIVE RELIEF AND DAMAGE
ASSESSMENTS

A. Enforcement Response Plan:

Whenever the Control Authority determines that a grease trap or interceptor is in need of pumping, repairs or other maintenance, or in the event that an additional grease interceptor is required, the Control Authority shall proceed as prescribed below:

1. The Control Authority conducting the inspection who determines that a violation exists shall immediately notify the owner/manager of the food service establishment that a violation exists and must be addressed promptly.
2. The Control Authority may issue the food service establishment a Notice of Violation (NOV) stating the nature of the violation(s). Upon issuance of a NOV:
 - a. The Control Authority shall perform a first re-inspection ten (10) calendar days, after issuance of the NOV, to allow sufficient time for corrective action by the food service establishment to be completed. In the event that the food service establishment is compliant with all of the deficiencies, there shall be no charge for the re-inspection. If all of the deficiencies have not been corrected, a first re-inspection fee of one hundred fifty dollars (\$150) shall be charged to the food

service establishment. A second re-inspection will be performed after a minimum of ten (10) additional calendar days have passed. In the event that the food service establishment is compliant with all of the deficiencies, there shall be no additional charge for the re-inspection. If all of the deficiencies have still not been corrected, a second re-inspection fee of two hundred fifty dollars (\$250) shall be charged to the food service establishment. If a third or more re-inspections are required a re-inspection fee of five hundred dollars (\$500) for each successive re-inspection shall be charged to the food service establishment in addition to other enforcement actions if all of the deficiencies have still not been corrected. All fees shall be added to the Lee County Utilities monthly service bill of the food service establishment.

- b. If the food service establishment responds with an acceptable explanation for the violation, and a plan for rectifying the situation, or makes good a deficiency within the prescribed time, enforcement ceases at the discretion of the Control Authority.
- c. If a food service establishment continues to violate the provisions set forth in this Ordinance, or fails to initiate/complete corrective action in response to a NOV, the

Control Authority may pursue one or more of the following options:

- i. Pump the grease interceptor and place the appropriate charge on the facility's monthly Lee County Utilities service bill; and/or,
- ii. Assess further inspection fees as provided; and/or,
- iii. Terminate water and sewer service.

B. Pretreatment Review Committee:

At any point during the enforcement process, a food service establishment may request a meeting of the Pretreatment Review Committee to appeal any request being made by the Control Authority.

C. Conciliation Meetings:

At any point before or during the enforcement action, the Control Authority may, but is not required to, invite representatives of the user to a conciliation meeting to discuss the violations and methods of correcting the cause of the violation. If the user and Control Authority can agree to appropriate remedial and preventive measures, they shall commit such agreement to writing with provisions for a reasonable compliance schedule. If an agreement is not reached through the conciliation process, the Control Authority shall continue with the enforcement policy as outlined in this Ordinance and take all appropriate action to insure compliance with this Ordinance or other law or regulation.

D. Civil and Injunctive Relief:

Upon approval of the County Attorney or designee, the Control Authority may file, in a court of competent jurisdiction, a suit seeking the issuance of an injunction, damages or other appropriate relief to enforce the provisions of this Ordinance or other applicable law or regulation. Suit may be brought to recover any and all damages suffered by the County as a result of any action or inaction of any user or other person who causes or suffers damage to occur to the POTW or for any other expense, loss or damage of any kind or nature suffered by the County.

E. Assessment of Damages to Users:

When the discharge from a food service establishment causes an obstruction, damage or any other impairment to the facilities or any expense of whatever character or nature to the County, the Control Authority may charge the expenses incurred by the County. The expenses include services to clear the obstruction, repair the damage to the facility or to recover any other expenses for damage(s) of any kind or nature suffered by the County. The Control Authority shall file a claim with the food service establishment or person causing the damages for any and all expenses or damages suffered by the County. If the claim is ignored or denied, the Control Authority may charge the expense to the Lee County Water and Sewer bill, or notify the County Attorney, or designee, to take such measures as shall be appropriate to recover any expense or damages suffered by the County.

SECTION SIX: **CONFLICT**

Whenever the requirements or provisions of this Ordinance are in conflict with the provisions of any other lawfully adopted Ordinance or Statute, the most restrictive requirements will apply. Such agreement must meet all current federal, state, and local requirements for inter-municipal agreements.

SECTION SEVEN: **SEVERABILITY**

The provisions of this Ordinance are severable and it is the intention to confer the whole or any part of the powers herein provided for. If any provision, paragraph, word, section or article of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and ordinances shall not be affected and shall continue in full force and effect.

SECTION EIGHT: **CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS**

It is the intention of the Board of County Commissioners that the provisions of this Ordinance will become and be made a part of the Lee County Code; and that sections of this Ordinance may be renumbered or re-lettered and that the word "Ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intention; and regardless of whether such inclusion in the Code is accomplished, sections of this Ordinance may be renumbered or re-lettered and typographical errors which do not affect the intent may be authorized by the County Manager, or the County Manager's designee, without need of public hearing, by filing a corrected or re-codified copy of same with the Clerk of Circuit Court.

SECTION NINE: **EFFECTIVE DATE**

This Ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State.

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The foregoing Ordinance was offered by Commissioner Hall, who moved its adoption. The motion was seconded by Commissioner Janes and, being put to vote, the vote was as follows:

BOB JANES	<u>Aye</u>
DOUGLAS ST. CERNY	<u>Aye</u>
RAY JUDAH	<u>Aye</u>
TAMMY HALL	<u>Aye</u>
JOHN E. ALBION	<u>Aye</u>

DULY PASSED AND ADOPTED THIS 8th day of February, 2005.

ATTEST: CHARLIE GREEN
CLERK OF COURTS

BY: *Joan S. Perce*
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: *[Signature]*
Chair



APPROVED AS TO FORM:

BY: *Scott S. Poarm*
Office of the County Attorney



FLORIDA DEPARTMENT OF STATE
Glenda E. Hood
Secretary of State
DIVISION OF LIBRARY AND INFORMATION SERVICES

February 14, 2005

Honorable Charlie Green
Clerk of Circuit Court
Lee County
Post Office Box 2469
Fort Myers, Florida 33902-2469

Attention: Lisa L. Pierce, Deputy Clerk

Dear Mr. Green:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated February 10, 2005 and certified copy of Lee County Ordinance No. 05-02, which was filed in this office on February 14, 2005.

Sincerely,

Liz Cloud
Program Administrator

LC/kcs

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